THE BRAILLE MONITOR

INKPRINT EDITION

VOICE OF THE NATIONAL FEDERATION OF THE BLIND

The National Federation of the Blind is not an organization speaking for the blind--it is the blind speaking for themselves

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THE BRAILLE MONITOR

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If you or a friend wish to remember the National Federation of the Blind in your will, you can do so by employing the following language:

> "I give, devise, and bequeath unto NATIONAL FEDERATION OF THE BLIND, a District of Columbia non-profit corporation, the sum of $ _____ (or, "___ percent of my net estate", or "the following stocks and bonds: ____") to be used for its worthy purposes on behalf of blind persons and to be held and administered by direction of its Executive Committee."

If your wishes are more complex, you may have your attorney communicate with the Berkeley Office for other suggested forms.

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WHY SHOULD THE BLIND RECEIVE DISABILITY INSURANCE?

by

Kenneth Jernigan

In the upcoming 91st Congress the National Federation of the Blind will be making an all out push to secure the passage of the Disability Insurance Bill. In 1964, 1965, and 1967, we secured passage of this Bill through the Senate but lost its principal provisions in the Senate-House conference. This time we can and must secure its enactment. It will mean the difference of thousands of dollars to many thousands of blind people. It is morally right. It is up to you and me to do our bit by writing letters and making personal contacts with Congressmen and Senators.

This may be the most important single piece of legislation affecting the blind ever introduced in this country. It certainly ranks along side Title X of the Social Security Act giving public assistance to the blind in the 1930's, the Randolph-Sheppard Vending Stand Act in the 1930's, and the Barden-LaFollette Act including the blind in rehabilitation in 1943. The provisions of the Bill are simple and far reaching. If it passes, any blind person who has six quarters of employment during which he has paid into Social Security will be eligible to draw disability insurance payments as long as he remains blind. This would be regardless of his income or earnings. It is only fair to say that if we get the Bill enacted, we will go back to the next Congress and ask to have the six quarters reduced to zero. In other words what we are asking and what we can achieve (if we all work and do our part) is this: every blind person in this country (simply because of blindness and regardless of earnings) will be eligible to draw full disability insurance payments.

Why should this be so? Is it really fair for a blind person with a high income to draw a monthly insurance payment? Are we being inconsistent by talking, on the one hand, about equal opportunity for the blind and their ability to compete and, on the other hand, asking for what amounts to preferential treatment?

It all depends on whether you look on this proposal as a true insurance or as a welfare payment to relieve the distress of poverty. The idea that society should give payment or subsidies to particular individuals or groups on the basis of something other than poverty or economic need is not at all new or revolutionary.

If, for instance, a rich man has three children and a poor man has none, the poor man is still taxed to help pay the costs of sending the rich man's children to the public schools. This is so because society has determined that such a system is in the best interest of the state and

the nation. It is not that the rich man can not afford to make special payments for the costs of educating his children or that the poor man (who may have no children at all) can easily spare the cash. Society is thought to be better off if the children of all (rich and poor alike) have the opportunity to attend public schools and if all who have taxable assets (regardless of whether they have children) pay to support the schools. In fact, if only poor children could go to the public schools, our society would be segregated into classes, and there would be considerable stigma attached to attending the public schools. Accordingly, a subsidy is given to the people who have children (rich and poor alike) because a social need is thus met. We have become so accustomed to the subsidy that we do not think about it at all, and one rarely hears any serious suggestion that only the poor should be able to attend the public schools, with the rich barred from the subsidy.

Likewise, farmers (the wealthy and the poor alike) are paid support prices and subsidies. Rightly or wrongly the Congress has determined that a social need is met by the provisions of the subsidy. In the same manner tariffs are charged on certain items coming into the country, taxing the consumer to support a given business or industry. It is thought to be in the best interest of the country to "protect" that particular business or industry by means of a subsidy, regardless of what it may be called.

Also, steamship lines, railroads, and airlines have been given various subsidies in the form of mail contracts and other benefits. And speaking of mail, certain types of mail (particularly first class) make a profit while others are heavily subsidized by the government--on the theory that society receives benefits by having particular types of material as widely distributed as possible (magazines, newspapers, etc.).

Thus, it would appear that the principle is long standing and firmly established that society shall pay a subsidy if a social benefit results. This brings us back to the question of disability insurance for the blind. Why should it be granted? In other words, what social benefit results?

Before dealing with this question let us talk for a moment about the nature of insurance. If a man goes to a private insurance company, he may buy insurance against blindness. If he then becomes blind, he will receive the insurance payments. He is receiving the insurance for which he paid, and his income has nothing to do with the matter. "But", some may object, "you have said that you would like to have disability insurance payments made to all blind people--even those who have not paid in to Social Security (in other words, to those who have not piad premiums)." True. But again, we can find a parallel in private in-

surance. A man may buy insurance against blindness for his entire family. His child may not have paid one dime toward the premium, but if the child becomes blind, he will receive payments. He is part of the family, and the family has purchased insurance against blindness on all of its members.

"Even so," the doubter may say, "these arguments would only hold true for people who become blind. What about the person who has been blind all of his life? Can a man buy insurance against what he already has?" No, a single individual can not. But, a group can. In many organizations (including the one in which I work) this very thing can and does occur. The State of Iowa has purchased hospital insurance to cover its employees. Further, it pays a large part of the premium for each employee. If a new person joins our staff and subsequently is hospitalized because of a preexisting condition, he still draws full insurance payments as part of the group. The group has purchased insurance to cover its members (from a private company, incidentally).

These are the principles of insurance, and insurance is not welfare. It is for the rich and the poor alike. The main requisite of insurance is that it meet a need for the individual or the group purchasing it.

Having said all of this, we come squarely to the issue. We the blind are asking society to purchase an insurance policy against blindness. Of course, the blind are part of society, and the blind who are working will (just as others) pay taxes to purchase the insurance.

"So," one asks, "what is the social need to be met, and how will society benefit?" To answer the question let us look at the situation now and compare it with the situation which will exist if our Bill passes.

At present if an individual becomes blind and ceases to be gainfully and substantially employed, he likely will be eligible to draw disability insurance. He has every incentive to remain unemployed and not to return to work at all. Why? In the first place he is probably not an expert in the law. He only knows that he is now drawing an insurance payment each month and that if he tries to go back to work, he may lose it--whether his attempt at self-support is successful or not. The law is complex and the talk of allowed earnings, trial work periods, definitions of gainful and substantial employment, etcetera, is confusing and not conducive to an attempt to make new beginnings. Futhermore, if the individual actually goes to work and (after a specified trial work period) is making in the neighborhood of $125 per month, he will lose his disability insurance payments. This is true even though he may have been drawing considerably more than $125 a month in disability payments. If dependents are taken into account he may have been drawing disability insurance payments in excess of $300 per month tax free. He is penalized for having tried to become self-supporting by losing his insurance

altogether. Even if he goes to work, he is tempted to conceal earnings and, if he yields to the temptation, lives in fear of being detected.

Let us suppose that before blindness the individual had an income of $15,000 per year. If (after blindness) he finds employment at $6,000 per year, he is still not eligible to continue to draw his disability insurance, even though the loss of income has occurred.

Besides all of this, it is conceivable under the present law that the individual may become blind, go back to work, then lose his job, and thereby become ineligible ever to receive disability insurance payments again because (by going back to work) he has demonstrated that his blindness does not prevent him from engaging in gainful and substantial activity. If, on the other hand, he is willing to settle down and draw his disability insurance without any attempt to go back to work at all, he can securely rest in the knowledge that the payments will continue month after month, year after year.

If an individual is born blind, he may be eligible for disability insurance if his father had a given Social Security status. Otherwise, he can not qualify. There are many other ramifications and qualifications but the point is clear. Under the present law the incentives are for an individual to remain idle, to sit at home and not jeopardize his monthly check.

Now, let us consider what the situation will be if our disability insurance bill passes. There is no complexity and no confusion. The blind person has every incentive to venture and earn to his full capacity. He knows that he will have a monthly insurance payment coming and that it will not be jeopardized by attempts at improving his condition. The blind person is better off and society is better off for him to be productive instead of idle, working instead of sitting at home. In addition, this does not even take into account all of the current anxiety and grief which occur because of the present complexities, mix-ups, and disqualifications on technicalities.

Moreover, there is one more matter which should be mentioned. The real problem of blindness is not the loss of eyesight. It is the misunderstandings and the misconceptions which exist. With proper training and opportunity the average blind person can do the average job in the average place of business and do it as well as his sighted neighbor. The massive discriminations which exist against the blind in employment and in opportunity come from society as a whole, not merely from the blind members of society. Therefore, it is reasonable that society should insure its members against these disadvantages.

For all of these reasons I believe that we should go forth and confidently press for the passage of our disability insurance bill--for

all blind people, and in the coming session of Congress. It is morally right; it is economically sound; and it is politically practical. Furthermore, if each of us will work vigorously, we can get the job done.

NEW AFFILIATE--KANSAS

by

Kenneth Jernigan

We have done it again! Another new affiliate, and a good one! Saturday, November 23, was a great day for the National Federation of the Blind, and for the blind of Kansas. On that date we organized the Sunflower Federation of the Blind with seventy-five charter members and limitless enthusiasm.

At the Des Moines convention last summer Jim Couts and I initiated the plans for the organization of Kansas. We corresponded, talked by telephone, and laid groundwork during the summer and early fall. Events made it clear that an affiliate was badly needed. I had been contacted earlier by the local organization of the blind in Kansas City, Kansas, with a request for help on vending stand problems. [See the November 1968 Braille Monitor.] Also, as our plans for organization progressed, workshop employees in the state were having problems and requested discussions. Apparently, existing structures were not meeting needs.

Late in September John Taylor went to Kansas City, Kansas and did preliminary work, holding a meeting of local blind persons and signing up some thirty members. In the meantime Jim Couts, Ray and Beth Graber, Eldon Lovland, Mary Ellen Anderson, Calvin Combs, Elmo Briley, Eileen Wilson and a host of others, began to make contact throughout the state in preparation for the organization meeting of the new affiliate, which was scheduled for the Town House Hotel in Kansas City, Kansas on November 23.

Late in October John Taylor and I went to Kansas City to stimulate activity and coordinate plans. On November 12, Ramona Walhof came from Idaho to travel throughout the state, to recruit members, and spread word of Federationism. She did a tremendous job and deserves special commendation in view of the fact that she was a new bride of only a few weeks and still was willing to give her time to promote the cause. As I received telephone reports of the work she and the Kansans were doing, it became clear that November 23 would be a great day, with an active affiliate assured.

On Friday, November 22, Anna Katherine and I, along with three

other Iowans, got into our car and headed for Kansas. Incidentally, I must comment in passing that I don't know how these problems with tires always occur, but somehow they do. Surely it could not be our 100 mile per hour speeds. Anyway, somewhere down the road in Missouri we stopped for gas and found that the rubber was separating from the body of the tires. We had to replace all four of them before proceeding.

Despite such delays we reached the Town House Hotel late in the afternoon and began our plans for the next day. Later in the evening, John Taylor and six other Iowans arrived. There were twelve of us in all.

We started the meeting the next morning at 10:00 o'clock. Not only did we have Iowans but we also had six Missourians present--Cotton Busby, Marie Henderson, Tiny Beedle, Ed Hill, and Victor and Xena Johnson. The Missouri delegation provided a real spark and a lively stimulation to the proceedings.

We began by discussing the Federation and its current activities throughout the country, with particular emphasis on the problems and prospects. We then signed up additional members and adjourned for lunch.

The first item in the afternoon session was the adoption of a constitution. Then came the election of officers and board members as well as a delegate and alternate delegate to next year's convention in South Carolina. At the conclusion of the meeting I got together with the board and talked about plans for the future--particularly a newsletter, membership recruitment, and a legislative program.

The Sunflower Federation of the Blind is an affiliate of which we can all be proud. It begins its existence with several hundred dollars in the treasury. Jim Couts, 1707 New Jersey, Kansas City, Kansas, 66102, the new president, is in the printing and advertising business. His firm made ball point pens, printing on them as a special fundraising device for the occasion, the words "I support the Kansas affiliate of the National Federation of the Blind". Jim got these pens at cost (14 cents each) and they were sold at $1, bringing in several hundred dollars by the time of the organizing meeting. Jim, who has been blind for more than twenty-five years, has attended past NFB conventions and is a real stalwart. He is successful in his business and highly respected by the blind of the state. He will make an excellent leader for the new affiliate. Others elected were: First Vice President, Eldon Lovland Prairie Village, Kansas. Like Jim, Eldon is a man of evergy and ability. He has been blind only for a few months but is already preparing

to return to work. Before blindness he was a construction superintendent for commercial contractors. He now plans to take up building management. Second Vice President, Dr. James Sistrunk, Manhattan, Kansas. Dr. Sistrunk teaches horticulture at Kansas State University and will add real strength to the affiliate.

Secretary, Mary Ellen Anderson, Lawrence, Kansas. Mary Ellen is a graduate student in microbiology at the University of Kansas and the wife of the manager of the Holiday Inn in Lawrence. Although sighted, her understanding of the problems of blindness and her enthusiasm for our cause are second to none. Treasurer, Ray Graber, Kansas City, Kansas. Ray is an assembler for Fairbank Morris Company and a man of integrity and ability.

Three people were elected to two year terms on the board. They are Jim Stewart, Meriam; Deroy Carr, Kansas City; and Eileen Wilson, Shawnee. Jim and Deroy are employed at the Kansas Industries for the Blind and Eileen is a telephone solicitor. Elected to one year terms were Calvin Combs and Walter Long of Kansas City, and Fred Patch of Overland Park. Calvin is an employee of Kansas Industries for the Blind and is the president of the shop workers' organization. Walter is the manager of the service department of the Baldwin Piano Company and Fred is an assembler for the Middle West Engineering Company.

Jim Couts was elected delegate to the South Carolina convention, and Jim Stewart was elected alternate. There is every indication that Kansas may have a sizeable delegation in South Carolina. In fact, the Sunflower Federation is going to be one of our strongest affiliates.

As I said after the organizing of Illinois, the Federation is on the move! We are going to organize every state in this nation, and do it without delay. Other affiliates will be coming soon. In the talking book Monitor, in the numerous college students who are joining our ranks, in the vitality and enthusiasm of our meetings, in the unity of our members, and in the constructive accomplishments of our program, one can see what we are today, and where we are going in the future.

Hail to the Sunflower Federation of the Blind, and hail to the other affiliates to come!

A LETTER ANSWERED AND A PROMISE KEPT

by

Kenneth Jernigan

In September, I received a letter from Merle Snopak of Kansas

City, Kansas. As you will see he questioned whether the National Federation of the Blind should come to Kansas at all and challenged the basic premises of our organization.

When I responded to him, I said that we would come to Kansas and organize an affiliate. We have done so, and every blind person in the state will benefit from the action, Mr. Snopak included. I thought you might like to see the exchange of letters:

1045 Calvin Avenue
Kansas City, Kans. 66102
Sept. 17, 1968

Mr. Kenneth Jernigan, President
National Federation of the Blind
Iowa Commission for the Blind
524 Forest [sic] Street
Des Moines, Iowa 50309

Dear Mr. Jernigan,

As president of the Association for the Conquest of Blindness here in Kansas City, Kansas, I want to thank you for your helpful suggestions concerning the post office vending stand in your letter of May 21.

I am writing to you, though, not as the president of the local association, nor as a board member in the Kansas Association of the Blind but only as an individual vitally interested in the welfare of the blind. And my reason for writing is that I understand you are coming to Kansas City to talk to a group of newly organized persons in the sheltered workshop here about their becoming an affiliate of the NFB. This group was formed by shop workers to solve shop problems, some of which needed help from outside. So they asked the local association to assist them in some way. After much thinking and discussion, information was gathered and directed by letter to the proper departments--the Department of Social Security, the Division of Services for the Blind, the Wyondotte County Welfare. Very quickly, some of these problems have been solved, and others are being looked into.

Now, what I want to know as an individual is: Just what are your reasons for wanting to form an affiliate made up of employees under the direction of the Services for the Blind? Do you really feel, Mr. Jernigan, that this will help the blind here, or merely drive a wedge? Remember, I an not saying that Kansas is not big enough for an NFB affiliate; but I personally feel that the sheltered workshop is not the proper place for it.

My views on the matter are that the machinery is already here and being used, though, perhaps not to its best ability. But since the local and state associations have become aware of the situation in the shop, they are moving forward to see that the machinery is used efficiently.

I believe the best way to help that group, is, if you have any constructive criticism to offer to them or to the local association, it would be welcomed.

There are so many problems facing all the blind, and so much could be accomplished if the various organizations, both on the local level and the national level, would work hand in hand. As you know, Mr. Jernigan, faults can be found with any organization. If everyone is truly interested in helping the blind, why is there so much distinction made between organizations, both claiming to represent the blind? Isn't it time that this sort of thing be set aside and all "move forward for the Blind?"--not one organization moving ahead at the expense of another.

I want to take this opportunity to ask you a question that I also intend to ask the president of ACB: Has any nationel companies, such as TWA, automobile industries, steel mills, General Electric, etc., been contacted on a national level toward the employment of visually impaired persons?

Thank you for your kind consideration.

Respectfully yours,

Merle E. Snopak

September 20, 1968

Mr. Merle E. Snopak
1045 Calvin Avenue
Kansas City, Kansas 66102

Dear Mr. Snopak:

This will reply to and thank you for your letter of September 17 concerning the establishment of a Kansas affiliate of the National Federation of the Blind. If I read the implications of what you say correctly, your understanding of our purpose is incorrect. Let me make absolutely clear what we intend to do.

We intend to establish an NFB affiliate in Kansas within the next few months. We will welcome the workshop employees as a part of that

affiliate, but we have no intention of limiting it to them or to any small segment of the blind population. Indeed, we will work vigorously and will blanket the state in our organizing effort. We will certainly not exclude workshop employees.

There is no intention to "fight" anyone or to "criticize" anyone, but we feel that those people in Kansas who want to belong to the National Federation of the Blind ought to have the right to do so, and we intend to see that they have that right. If our state affiliate (the same is true in any state) feels that a given situation or a given aspect of a program requires criticism, then that criticism will, of course, be made--and rightly so. The blind do not organize simply to play games or drink coffee, but to deal in a collective manner with common problems. Your own Association apparently recognized the need for something more than you now have in your State Association or in the American Council of the Blind when you wrote to me earlier this year to ask for assistance in solving a vending stand problem. Why should not all of the blind of the state who wish such help have an open channel to receive it? And why should they not pool their strength with the rest of us to give as well as take? We are going to organize Kansas and we are going to do it in good humor and good temper. I hope that others will respond to our effort in the same manner.

To say that all of the organizations of the blind ought to get together is a fine generalized statement, but at this stage of the game it has more of the political gimmick than the tone of constructive reality about it. I many areas the National Federation of the Blind and the American Council of the Blind are now working for the same thing. Where this is the case there might be cooperative effort--assuming that everyone behaves in a civilized manner and refrains from name calling and personal attack in national publications and elsewhere.

On the other hand, there are areas where the Federation and the Council now find themselves in opposition to each other on program matters. I will give you two examples: 1) The American Council of the blind supports the "two for one" concept for air travel. It apparently believes that the best interest of blind persons is served by having the blind person and his guide able to go for the price of one ticket. The Federation is opposed to this notion and believes that it has more detrimental than constructive aspects. Without going into the merits of the matter, it is surely obvious that the two organizations could not "get together" on this issue. 2) The National Federation of the Blind believes that COMSTAC and its successor agency, the National Accreditation Council, should be opposed as vigorously as possible. In view of the manner in which it has been handled we believe that the whole concept of accreditation, as these groups conceive of it, is

detrimental to the blind. In fact, we believe that this is one of the most serious threats to the well being and advancement of the blind to emerge in the last twenty-five or thirty years. The American Council, on the other hand, believes that COMSTAC and the accreditation concept should be supported. They have gone so far as to apply for accreditation and to seek membership in the National Accreditation Council. Again it is not necessary to deal with the merits of the case to show that the two organizations could not coordinate their efforts on the vital question of accreditation.

Disagreement, however, does not need to result in uncivilized behavior or lack of courtesy. I invite you to search through the pages of the Braille Monitor (the official publication of the National Federation of the Blind) to see whether you can find any attack on the Council during the past year, or the year before, or the year before that. Alternatively, I invite you to peruse the last three or four issues of the Braille Forum (the official publication of the organization to which you belong) to see whether good taste and restraint have uniformly prevailed.

The American Council of the Blind has a perfect right to exist and to advocate whatever views it believes to be correct. It has a right to have an affiliate in Kansas, provided there are blind people in the state who share its views and wish to join. If it demonstrates a willingness to live in peace, it has a right to expect to exist without molestation from others. The National Federation of the Blind has the same rights and privileges and has every intention of exercising them. Upon reflection you might decide that you wish to become part of our movement.

Before concluding, let me deal with your final questions. You asked whether any contacts had been made with large national corporations with respect to their hiring blind people. The answer is that some such contacts have been made but that the results are never positive in the absence of strong local efforts. There is no substitute for strong local organizations of the blind, strong state rehabilitation agencies, and strong and effective publicity.

Very truly yours,

Kenneth Jernigan,
President
National Federation of
the Blind

MEET OUR STATE PRESIDENT--

RUTH ASHBY, AND OUR STATE

AFFILIATE--COLORADO.

[Editor's Note: This is the second article in this series which started in the December issue of the Monitor. Mrs. Ruth Ashby, President of the Colorado Federation of the Blind, writes as follows:]

Considering the high esteem in which the blind of Iowa are held by all of us who were guests at the NFB Convention in Des Moines last summer, I feel I should boast a little. I, too, was born in Iowa; at Grace Hill, Washington County, sixty-seven years ago and was named Ruth Isabell Meyers, and baptized in the old Moravian Church at the crossroads.

Due to my father's poor health, our family moved to Colorado in 1907. I was sent to the school for deaf and blind at Colorado Springs and received what education I have. I graduated in 1920.

The next forty years of my life were spent in Grand County, Colorado. This is in the heart of the Rockies; a land of cattle ranches, hay fields, summer tourists and campers, and winter sports. So far as I know, except for a few very old and retired persons, I was the only blind citizen in the whole district. I have none of the characteristics of a hermit and joined in the life and activities of the community and was accepted. The small amount of travel vision, probably never as much as two percent, deteriorated as I grew older, so that I have been entirely blind for the past ten years.

In due course, I married and became a rancher's wife and home maker. I raised two daughters who are now married and have their own families.

It is generally thought that the life of a rancher's wife is hard and lonely. I never found it so. I joined in with all the activities: church and school affairs, farmers clubs and lodges, and social affairs, and was always expected to take my turn at entertaining or holding offices. So far

as I could tell there was never any discrimination because of my blindness nor was any special privilege granted.

We moved to Denver in '62, and bought the house where I still live. Before we had been here a year Mr. Ashby died and I was faced with the sudden necessity for self support. Almost at once, I applied for a job with the Colorado Industries for the Blind and got it. I had always done my own sewing but was rehabilitated to the extent of being shown how to run a power machine and the various attachments. My relations with the Industries have been entirely cordial. They send me all the work I can do. For the past five years I have been entirely self-supporting.

I joined the Colorado Federation of the Blind shortly after it was organized in '55, and was always present at the State Conventions. The first national convention I attended was in Omaha, and I have missed only three since then. With the move to Denver came active participation in the C. F. B. and the Denver Area Association. It seems unbelievable how often committee chairmanships came my way. I was elected president of the C. F. B. in '67, for a two year term.

We have really worked hard this past year at building up our membership and trying to get other projects started that would hold the interest of our members. Our membership has increased by twenty-five percent.

I should like to state clearly that Ray McGeorge is actually the guiding hand and the inspiration for our whole organization. When the Colorado Federation takes its proper place as a leader among the states, it will be due to Ray's guidance.

At our Convention this year we gave the first Achievement Award of twenty-five dollars and a trophy to the outstanding blind student of the state at high-school level. It is named for long-time Federation leader, The William E. Wood Achievement Award. For the first time, the Colorado Federation gave a beautiful scroll to the Man of the Year, for services to the blind. Mr. Wilbur Fulker, principal of the Blind Department of the School for Deaf and Blind was chosen as the recipient.

The Colorado Federation is also working at promoting a mountain recreation area for the use of all the blind of the state. We have high hopes the the Rehabilitation Department and Services for the Blind will join us in this project.

Our Colorado Springs affiliate was almost extinct last year. The State Board went to the Springs and did a bit of stirring up in August. They now have nearly thirty members.

Ray McGeorge is president of the Denver Area Association. This group is also expanding its interests. By the first of January the organization hopes to have set-up a death benefit memorial plan. The Denver Area is also very interested in starting a center where all our activities could be held. Ray will find a way to do that.

We are planning to have at least twenty Colorado people at the convention in Columbia next summer. And Be Ye Warned! --we mean to put in our bid for the National Convention in Colorado in '72.

A FOREIGN FRIEND LEAVES US

Word has just reached us from Brisbane, Australia of the sudden death of Tim Fuery who was well known to many in the National Federation of the Blind since his visit to this country in 1962. Tim was an ardent supporter of the philosophy of the Federation and strove diligently to bring to his own country the notion of independence of the blind, particularly in the fields of self expression and self determination.

Tim returned from his usual work on a Monday afternoon, feeling a severe pain in his chest. He was hospitalized for observation and treatment but died within a few hours of admission to the hospital.

Tim was a worker in the Queensland Center for the Blind in Brisbane where he had been employed for many years. He not only promoted the interests of the blind in the Center but was a leader in all phases of the movement in Queensland and in all Australia.

Tim Fuery was a warm, generous man and a true comrade-in-arms. He will be sorely missed from the ranks.

THREE MEN FROM OLYMPIA

The visit of three men from Olympia, Washington--students of the Olympia Vocational-Technical Institute and all three blind--provided the highlight of the State Board Meeting of the Washington State Association of the Blind in the Roosevelt Hotel, Seattle. They were brought to the Board by Mrs. Nellie Couch, W. S. A. B. Treasurer and a leader of the Thurston County Association of the Blind.

What these three men told the Board of their experiences trying to secure employment in their chosen fields of work conclusively shows the continued existence of a most humiliating and degrading system of discrim-

ination against the blind. In spite of considerable progress made toward hiring blind in Washington, particularly in public employment and in the teaching profession, and even in important state administrative positions, these three men still find many doors closed to them.

Robert Sellers from Camas, Washington, is a graduate of Washington State University with a B. A. in education and geology. He will graduate in June from the Olympia Vocational-Technical Institute fully trained and qualified in data processing. Mr. Sellers expressed the opinion that the public is not educated about the problems of blindness. Mr. Sellers is legally blind, possessing enough sight to permit mobility. He stated that educational institutions in this State, despite the fact he is more than qualfied for teaching positions in every other respect, have turned him down simply because of his sight problems.

Berl Colley from Walla Walla, Washington, graduated from Washington State University with a B. A. in sociology, and has graduated from the Olympia Vocational-Technical Institute school of data processing, one of the most modern, up-to-date pioneers in the field of technical training for blind students. He is experiencing great difficulty in finding employment.

Gary Ernest from Mesa, Washington, attended Washington State University for three years. He will graduate from O. V. T. I. next June as an expert in data processing. He, too, has not met with any encouragement from employers in this State who are advertising regularly for expert operators such as he.

Mr. Sellers, Mr. Colley, and Mr. Ernest further expressed a desire to support passage of the White Cane Law in the next legislature. This is a measure supported by the W. S. A. B. two years ago, but which failed to pass at that time. It would bar discrimination against otherwise qualified blind in any publicly financed employment. All three men expressed the desire to see the White Cane Law introduced again, and further proposed that it be so amended as to apply to private employment.

The warm reception and support received by these three men from the Washington State Association of the Blind Board meeting indicates their problems will not go begging, but that they will have the full support of the W. S. A. B.

FREE STATE FEDERATION OF THE BLIND CONTINUES TO GROW

by

Alan Schlank

For many years the state of Maryland could boast but one organization associated with the National Federation of the Blind--the Maryland

Council of the Blind. In 1966 a second chapter, the Greater Baltimore Chapter of the Blind, was formed, and these two organizations combined to form the Free State Federation of the Blind. In 1967 two more local organizations of blind people were formed and became affiliated with the FSFB. The Twin County Federation of the Blind is the FSFB's affiliate in the Washington, D. C. suburban area. The Chester River Federation of the Blind is located on Maryland's Eastern Shore. Although these two organizations are young, they have already contributed markedly to the stimulation of the organized blind movement in Maryland. Even with the addition of these new chapters, however, it was clear that much more was left to be done.

Acting as chairman of the Free State Federation of the Blind's membership committee, Ned Graham, executive committeeman of the National Federation of the Blind and Free State Federation of the Blind first vice president, traveled to Cumberland, Maryland, to investigate the possibility of forming an organization of the blind in this western Maryland city. In Cumberland is located a branch of the Maryland Workshop for the Blind, so it was certainly fertile territory for expansion. On his first visit Ned met with Mr. Charles See, director of the workshop and long-time state legislator. At this meeting it was decided that an organization of blind people in western Maryland could play an important role in benefiting the blind of that area and of the state as a whole.

On Saturday, October 19, under the able direction of Ned Graham and John McCraw, Free State Federation of the Blind president, a new chapter of the Free State Federation of the Blind was organized in Cumberland with an initial membership of fifteen. Many of the members, although not all, are workers at the workshop in Cumberland. All present at the organizational meeting expressed interest and enthusiasm in the organized blind movement. The aims of the organized blind were presented by the state officers attending this meeting, and a lively discussion of the role of this new chapter ensued. A constitution was adopted, and the following officers were elected: President, Charles Ellis, 405 McMellan Highway, Cumberland, Maryland, 21502; Vice-president, William Gum; Secretary, Joyce Ellis; Treasurer, Elsie Heavner; state executive board member, Howard E. (Jim) Burns. The new chapter shall be known as the Associated Blind of Cumberland.

We of the Free State Federation of the Blind are proud of this new chapter. We were impressed by the enthusiasm of its members, their desire to learn more of the organized blind movement, and their desire to help the blind of their area and the state. We are also proud that we continue to grow as a truly state-wide organization. We hope and trust that this growth is only now really beginning.

KEEPING UP WITH THE COST OF LIVING

The consumer price index issued by the United States Bureau of Labor Statistics is the generally accepted measure of the rise in the cost of living in this country. This index has shown cost-of-living increases averaging 2 percent a year for the past twenty-five years, the percentage now running more than twice this average. Yet Aid to the Blind payments to needy individuals have not kept pace. The average monthly payment for the 81,700 recipients is only $90.25 for the country as a whole.

Even if our statutes did keep Aid to the Blind payments apace with the rising cost of living, it is recognized that there would still be a gradual worsening of these benefits relative to earnings, since earnings grow in accordance with the overall growth of the national economy whereas public assistance payments do not reflect such gains from growth. Nevertheless, a cost-of-living escalator clause in our Aid to the Blind statutes would be a tremendous benefit to the recipients.

Keeping aid payments abreast of rising living costs should not be too difficult a notion to "sell" to legislatures. Many labor unions, notably the United Automobile Workers, have long enjoyed a provision in their contracts whereby the wages of auto workers are increased as the consumer price index rises. Currently the annual increase of about 5 percent in the salaries of millions of American workers reflects the operation of this same principle, but with one big difference--it is not automatic. The platforms of both of our major political parties are calling for an escalator clause in Social Security benefits.

In 1961 the California Legislature placed in the Aid to the Blind statute a cost-of-living increase provision, effective January 1, 1962. In the seven years since then, as a direct result of this provision, the amount of Aid to the Blind payments in that State have been increased automatically $22 a month or an average of more than $3 a month for each of the seven years.

Following is the language in the California Welfare and Institutions Code, which could be adapted for any state:

> The amount of the grant as set forth in this section shall be adjusted annually by the department to reflect any increases or decreases in the cost of living occurring after January 1, 1960. The average of the separate indices of cost of living for Los Angeles and San Francisco, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. Whenever the

cost of living increases or decreases by a percentage which when multiplied by one hundred fifteen dollars ($115) results in a product of one dollar ($1) or more, this product adjusted to the nearer dollar amount shall be added to or subtracted from the monetary amount specified in the preceding paragraph. The resultant sum shall be declared by formal action of the department to be the monthly grant payable under this section. In giving effect to the cost-of-living feature of this section the department shall select a base month for computation of the percentage change in the cost of living since January 1, 1960. The same month shall be used annually thereafter. The ordered change in maximum grant shall become effective on the first day of the month following the expiration of a ninety (90) day period following the date of the formal action of the department directing the change.

NEW JERSEY CONVENTION

by

Fran Crosby

The Eleventh Annual Convention of the State Council of New Jersey Organizations of the Blind was held on Saturday and Sunday, October 26-27 at the Empress Motel, Asbury Park.

The sessions were presided over by President Myles Crosby. The roll call showed representation from all nine chapters plus delegates from the Blind Merchants of New Jersey which was to be enrolled as our tenth chapter during this convention.

The annual report of the president indicated organizational activity on a number of fronts. Legislative efforts included attempts to amend the New Jersey state sales and use tax law; to eliminate relatives responsibility from the aid to the blind law; to repeal the use of the absentee ballot by blind voters and allow them to vote in the usual manner.

Among other activities of his office, the president attended the signing by Governor Richard J. Hughes of the Council-sponsored White Cane Safety Day Proclamation.

Among the subjects presented to the more than 150 persons attending were social security covered by James Cavinator, director of the Monmouth County Social Security Offices; the model white cane law and other legislation by John M. Taylor, assistant director of the Iowa Commission for the Blind, representing the National Federation of the Blind; the right of the blind to serve on juries by Dr. Edwin R. Lewinson,

who teaches at Seton Hall University; New Jersey's election laws as they affect the blind by George E. Burck, executive secretary of the New Jersey Blind Men's Association. A panel discussion on organizing a chapter of the Student Division in New Jersey was moderated by Mr. John Taylor and had Professor Roger Peterson, vice president of the NFB Student Division; Professor E. R. Lewinson; and Mr. Hollis Moffet as panel members.

Following the 5:00 p.m. adjournment on Saturday an organizational meeting of the New Jersey Student Division was held and a constitution was adopted.

Approximately 125 persons attended the banquet. George Burck acted as toastmaster and introduced Mr. John Taylor, the banquet speaker. His spirited address was entitled, "The Abilities of the Blind."

The Sunday morning session was devoted to discussion of fund-raising, the admittance of the Blind Merchants of New Jersey into the Council and various other business items. Six resolutions were discussed and passed.

Officers elected for the coming year were: President, George E. Burck; first vice president, Merle Relyea; second vice president, Raymond Taliaferro; secretary, Nicholas Kovak; treasurer, Henry Duser. Harold Daiker, Esther Epaminonda, and Ann-Rose Johnston were elected to the executive committee as members at large.

October 25-26, 1969 was set for the Twelfth Annual meeting of the Council but no city was definitely decided upon.

BRAILLE MANUAL FOR HER

by

Yolanda Benavides

[Editor's Note: The following article appeared in the Bulletin, published by the Michigan Council of the Blind and originally appeared in the Pontiac Press.]

The systematic arrangements of raised dots on the large vanilla sheets were lightly and expertly fingered by Wisner School's new PTA president, Mrs. Donald Eagle.

Made especially for her, the black-bound PTA Manual, which is the first of five volumes to be completed, was hand transcribed by Frances Crane of the Tri County Braillers' Association Incorporated.

Unassuming Dorothy Eagles' warm and easy manner has won the unnoticed acceptance she prefers while assuming her share of community activity.

As one accustomed to this role Mrs. Eagle should find herself at ease in her new post as president. She just finished a year-long stint as vice president.

In addition to her PTA endeavors, this hustling mother of five who range in age from eight to fourteen, has initiated a personal touch of tradition at Wisner School. With the advent of Christmas each year she takes special pleasure in reading favorite classics to the children.

While Mrs. Eagle, who has been blind since childhood, likes to think of it as a fun-type thing, she also makes use of the opportunity to acquaint her listeners with the everyday tasks she assumes as one adjusted to a world of darkness.

It's a world she herself jokingly perceives as an "inconvenience, rather than a handicap."

"My parents never thought of me as being blind," she says, "So naturally I've always acted like a sighted person."

"So you see, I'm really not doing anything different than anyone else," she mused, "And that's why I encourage the children to ask questions and discover this for themselves."

While recent years have curbed her outside activities, as she raises her family, she now channels her efforts through the Michigan Council of the Blind. Here she met her husband, Donald, who has been totally blind now for six years. In this group she serves as vice-president. Ample time in the future for relaxation will hopefully find this amateur radio operator once again making use of her license.

CENTER, HOUSING FOR BLIND STUDIED BY HUD

by

Paul R. Stevens

[Editor's Note: The following article appeared in the Brockton (Mass.) Enterprise.]

The U. S. Department of Housing and Urban Development (HUD) in New York is studying plans submitted to it by the Brockton Cultural

Center of the Blind, Inc., with the backing of Mayor John E. Sullivan, for federal funds for an 80-unit low-cost housing project and center, it was announced at the quarterly joint meeting of the Center and the Associated Blind of Greater Brockton at the Hotel Bryant.

Cautioning against over-optimism at this early stage, George Alevizos of Dorchester, a member of the Advisory Board of the Massachusetts Commission for the Blind and a board member of the Cultural Center of the Blind, told approximately 40 men and women at the meeting that HUD's initial reaction to the plan for housing units and a center was a favorable one.

"But this is an informal, verbal reaction expressed by HUD officials and not an official agency report," Alevizos said. He added that the Cultural Center can expect to receive a formal report from HUD within a short time.

Alevizos and his nephew, John Alevizos, of Woban, have given land in the East Side Plaza area of Brockton to the Cultural Center for future development.

Plans submitted to HUD call for 40 housing units for the blind, and 40 units for sighted elderly persons. The building also would have facilities where classes for the blind in ballroom dancing, cooking, peripatology and other endeavors could be held.

"We desperately need a center where the blind of this area can live in their own places in dignity and independence, with the help of sighted persons in the building when their help is needed," declared Miss Barbara Leavitt, president of the Cultural Center, who presided at last night's meeting.

"But we're not going to get the center without actively supporting it ourselves and spreading the word of its need and how it can benefit, not only the blind, but all sighted persons concerned with the blind and their care," Miss Leavitt added....

WIDENS COMPUTER USE TO BLIND

by

Phillip S. Brimble

[Editor's Note: The following article was published in the Kansas City Star.]

Programing computers is a rare talent, but Bill Adler, who is blind, has gone one step further than just learning that skill. He has

devised a way for the computer to print its answers in braille.

Adler, 25 years old, a programer at the Bendix corporation, has created a coding system that translates the numbers and letters normally used in printing out information from the computer into the dot patterns of braille. In essence, he has written what is called a utility program, which adds another step in the flow of information through the computer complex.

As any programer will tell you, computers are just machines, and as such will do what they are told. Adler has told the computer, through a series of directions, to print answers in braille.

Questions are asked of the computer by typing them on a typewriterlike keyboard, which sends the message electronically to the computer's memory. The computer then translates the information into letters--letters to be typed into words at the rate of 1,100 lines of information a minute. In this system the computer has been programed to respond to questions by typing out the answers.

Adler has written a program, which is a plan for solving a problem, instructing the computer to translate letters and words into Braille. This message in Braille is printed by using only the period on the alphabet keyboard of the printout machine.

To make the Braille printout useful to Adler, the information is printed backward on the paper; right to left. He then removes the paper from the machine, turns it over, and reads the raised dots with his fingertips, left to right.

"It takes a little longer for the computer to go one more step and print in braille, and it requires about three times as much print paper," said Adler.

Adler, who was an art major, with emphasis on painting, at Central Missouri State college, has been blind since suffering a series of glaucoma attacks his senior year in school....

After finishing the programing school, Adler returned to Kansas City and to several disappointing job interviews.

"A lot of firms were impressed that I had learned to program, but they didn't hire me", said Adler.

One of these interviews, with a national chain department store and catalog order house, ended after two and a half hours with the

interviewer saying: "All this is very nice, but how would you find the men's restroom."

"I was surprised and hurt at the same time", recalled Adler, who told the interviewer he would expect the same tour of the office, given any new sighted employee. Adler didn't get the job.

At Bendix, Adler says, he has become accepted by the other programers, after a period of amazement that a blind person could do such complex work.

"Actually," said Adler, "being blind has it's advantage. I'm the only one who can proofread my own work, so I get to catch the mistakes first."

NAGLE LECTURES COLLEGE CLASS

John Nagle, Chief of the Washington Office of the National Federation of the Blind, recently found himself cast in the role of a lecturer to a class of political science majors of Lewis and Clark College, located in Oregon.

For the past four years Lewis and Clark College has sent a group of its students to live and study in Washington, D. C. for the entire fall quarter. The students have formal classes in constitutional law, electoral politics and the history of American art. A good part of their time is spent in field trips and interviews with those who are participants in and well informed about various features of the capitol scene.

The Legislative Assistant for one of the most prominent of the United States Senators suggested to the Faculty Leader of this group that John Nagle of the NFB was a lobbyist who might be prepared to speak to the group about his activities in the role of legislative advocate. Nagle was described as one of the most effective in this area.

Before John showed up and lectured for two solid hours, the students had the standard picture of the lobbyist--black bag filled with boodle and probably a big black cigar. The Faculty Leader believed that it would be helpful for his class to see that this was hardly the case and that the lobbyist performs a number of quite essential functions, informational and otherwise.

After John's lecture, the students' picture of the typical lobbyist

was not confirmed. In the first place, John smokes a pipe instead of a big, black cigar. And there are many and more significant differences. Nagle's only "boodle" is persistent hard work and the appeal of the cause which he represents.

After hearing John hold forth for two solid hours, the Lewis and Clark students concluded that, while he was not the standard picture of a lobbyist, he was assuredly one of the most effective legislative advocates on Capitol Hill.

OHIO CONVENTION
by
Clyde Ross

The Ohio blind gathered for their 22nd annual convention in Canton, Ohio, hosted by the Philomatheon Society of the Blind. Two hundred forty-six of our folks registered and 274 attended the banquet.

There were speakers on rehabilitation, income tax in reverse, gadgets that have been developed to assist the blind, and electronic research for the restoration of sight. An excellent toastmaster and speaker, together with a good chorus, made the banquet outstanding. A dance followed.

Seventeen resolutions were considered and adopted. Since 1969 is an Ohio legislative year, eleven of these dealt with problems we hope to have solved through legislative action.

Affiliate reports have become an important part of the OCB convention. They have long since changed from "What is done for us?" to "What we are doing for others?"

The OCB has, for many years, given awards to sighted and/or blind persons, who have rendered long and worthy service to the blind. This year, we recognized Ivan Garwood, blind, and Mrs. Rita Bresler, sighted. The OCB gives an award to the affiliate that shows the best performance based on a point system that is equitable for both large and small affiliates.

Loretta Loshuk was the youngest Ohioan attending the NFB convention in Des Moines, Iowa. She gave an excellent report at our OCB convention. She has been appointed to the Membership Committee with the responsibility of organizing a student chapter within the OCB.

The officers elected at the 1967 OCB convention did such a good job of administering the affairs in Ohio that each of them was reelected,

unanimously. It was the quietest, quickest election in our records. Alfonso Smith, 2020 Jacobs Road, Youngstown, Ohio 44505, President; Carl Eiche, First Vice President, Lima; Charles Novinger, Second Vice President, Dayton; John Knall, Secretary, Cleveland; Ivan Garwood, Treasurer, North Baltimore; and Mrs. Edna Fillinger, Executive Secretary, Cleveland.

The 1969 OCB convention will be in Cincinnati at the Sheraton Gibson Hotel October 10th, 11th and 12th. The 1970 OCB convention will be in Cleveland.

MEDICAID IN DEEP TROUBLE

In the closing hours of the 90th Congress the Senate, by a vote of 44 to 25, tried to reduce federal contributions drastically in medicaid programs for the medically indigent--persons too poor to afford good medical care but not poor enough to qualify for public assistance. The Senate amendment did not pass but this issue undoubtedly will come up again in the new Congress.

Federal medicaid expenditures will top budget estimates by several hundred million dollars, the Senate was advised, unless far-reaching cutbacks are made. Under the existing provisions of Title XIX of the Social Security Act, the federal share for each state is determined by that state's per capita income, ranging from 50 percent to 83 percent. Under the Senate's proposal the federal share would be reduced to a range of 25 percent to about 69 percent. The medicaid program is now in operation in 38 states plus the District of Columbia, Puerto Rico and the Virgin Islands, but only 23 states provide medical assistance to the medically needy.

Current estimates for the federal share for medicaid for medically needy for fiscal 1969 are some $700 million higher than the estimates given to Congress by the administration last year.

WSAB WANTS PASS-ON

[The following is taken from The White Cane, publication of the Washington State Association of the Blind.]

The WSAB adopted a resolution at its thirty-third annual convention recently which was forwarded to the Governor of the State of Washington. The resolution reads as follows:

"Whereas, There are blind recipients of Public Assistance who also receive Social Security, and

"Whereas, These blind recipients do not get the benefit of the increases in Social Security because the amounts of such increases are deducted from their Public Assistance grants, and

"Whereas, The amounts of these increases in Social Security are going into the State Treasury rather than to the rightful recipients, therefore be it

"RESOLVED, That the Governor of the State of Washington be urged to correct this situation."

. . . . . .

Governor Replies to WSAB Resolution:

A letter was received recently from Governor Dan Evans in reply to the WSAB request for state action to pass on the increase in Social Security benefits to the blind. The following is the text of his letter:

"Thank you for the letter received in my office on August 19 accompanied by a resolution passed by your 1968 convention. May I first comment that your organization is certainly to be commended for 33 years of attention to programs and services for the blind persons of our state.

"I have contacted Mr. Sidney E. Smith, Director of the Department of Public Assistance, and have learned that you had also forwarded a copy of this resolution to that Department. Mr. Smith states that in his response to you he is explaining the discussions which have taken place when the new Federal Law allowed a $7.50 per month deduction of unearned income. To date this is the maximum unearned income exemption allowed by law and it was with regret that we concluded that our budget problems prevented taking advantage of this provision.

"As we consider future State budgets, we will certainly review the possibility of allowing such an exemption as called for by your resolution. However, even though we may conclude that it is possible to provide the exemption, we would be limited to the $7.50 per month specified by the Federal Law.

"May I again compliment your organization on its long history for concern for the blind people and social service concern for the State of Washington."

Sincerely,

/s/ Daniel J. Evans

BUBBLE IN WESTERN AUSTRALIA

by

Dr. Arnold Cook

[Editor's Note: Dr. Cook, himself blind, is a Professor of Economics at the University of Western Australia. He visited this country three or four years ago for research at American universities.]

There was some consternation in Blind Welfare Circles in Western Australia some few months ago when the Western Australian Braille Society for the Blind dismissed its most highly qualified blind welfare worker Mrs. Josephine Nicholson. Over four years ago the Western Australian Braille Society imported Mrs. Nicholson from the United Kingdom on a three year contract. She was to carry out special duties concerned with the assistance of blind high school students, and was to help in the establishment of a new rehabilitation centre for the blind.

Unfortunately, the new rehabilitation centre for the blind did not eventuate owing to lack of funds and at the end of the three year period Mrs. Nicholson's contract was not renewed.

Earlier this year Mrs. Nicholson was dismissed by the Braille Society on the grounds that it did not have enough funds to employ her, she was too highly qualified for the type of work which the Braille Society had for her to do. Mrs. Nicholson holds the degree of M.A. in Social Administration from the University of Nottingham, and has had considerable experience in educational, vocational training, and blind welfare work in the United Kingdom.

Fortunately, the whole situation has now been resolved. Mrs. Nicholson did not want to return to the United Kingdom. The Western Australian Guild of Business and Professional Blind, in cooperation with the local Lions club, has decided to raise the funds necessary to employ Mrs. Nicholson as a Blind Councillor. She is now employed by the Guild as from July 1st this year and is to be set up in an office centrally situated in Perth, Western Australia, where she should be able to perform a valuable and much needed service in the councilling of blind persons of all ages as to their educational, vocational and social problems, and trying to pioneer a job placement service for blind persons. It is to be hoped that the employment of Mrs. Nicholson by the Guild will be a beginning of the establishment of a full scale rehabilitation for the blind in Western Australia.

THE SECRETARY REPORTS

In his annual Report to the President, John W. Gardner, former Secretary of the U.S. Department of Health, Education, and Welfare,

gave revealing information concerning the nation's public assistance programs. The Report contains the following:

In June 1967, federally aided assistance under old age assistance (OAA), aid to the blind (AB), and aid to families with dependent children (AFDC) was available in all 54 jurisdictions of the country--the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. Aid to the permanently and totally disabled (APTD) was available in all jurisdictions but one. Twenty-nine jurisdictions were administering medicaid--the new medical assistance program (MA)--and medical assistance for the aged (MAA) was still in operation in nineteen jurisdictions. General assistance (GA), wholly State and/or locally financed, was available in some form for some persons in all fifty-four jurisdictions.

About 8.4 million persons, or somewhat less than a fourth of the poor were receiving money payments under public assistance programs in June, 1967. They included 2.1 million aged persons receiving OAA, 5 million dependent children and their parents or other caretakers (including 3.7 million children in 1.2 million families) receiving AFDC, 615,000 disabled receiving APTD, 83,000 receiving AB, and 664,000 receiving GA. Vendor payments for medical care were also made on behalf of many of the recipients of public assistance money payments, as well as for some other medically needy persons.

A larger number than those now aided-about 8 1/2 million--are estimated to be both needy and eligible for assistance under Federal provisions but are not receiving assistance because of the limitations of assistance standards in State programs. Many needy persons are not included under federally aided State public assistance programs, and less than half of the people who are needy and eligible under Federal provisions were actually being aided by the States. This is because all States do not participate in all programs available under Federal law nor in all provisions of Federal laws; and because many States have placed restrictions in their public assistance programs for fiscal and/or other reasons, resulting in denial of aid to persons who would otherwise be eligible under Federal law.

Examples of State restrictions are State residence requirements, citizenship requirements, suitability of home provisions, limited definitions of disability and unemployability such as denial of assistance to needy mothers of dependent children considered to have employment resources, denial of supplementary assistance to any employed person regardless of the inadequacy of his earnings, a lower cut-off age for children than permitted under Federal law, and use of liens on a home and recovery provisions that discourage application for assistance.

National monthly average public assistance money payments in June 1967 were $68 per recipient of OAA, $37 per recipient of AFDC ($153 per family), $77 per recipient of APTD, $85 per recipient of AB, and $39 per recipient of GA ($83 per case or family).

The national average public assistance money payments under the federally aided categories of assistance provide little more than half the minimum amount required for subsistence according to the generally accepted poverty level, and in some States the average money payment is less than a fourth of that amount.

Average payments not only are low, but vary widely from State to State as evidenced in the range of payments for a dependent child in June 1967 from a low of $9 per month in Mississippi (except for $4 in Puerto Rico) to a high of $56 in New Jersey; and for an old-age recipient from a low of $39 in Mississippi (except for $9 in Puerto Rico) to a high of $102 in California.

Each State establishes its own assistance payment level which reflects both the State's fiscal capacity and prevalent social attitudes. Because of insufficient funds, a number of States reduce the amount of the payment, some set arbitrary maximums regardless of the size of the family, and others pay only a certain percentage of need computed under the State standard or impose unrealistic policies with respect to other potential income or resources or relatives' responsibility that serve to prevent meeting full need.

About half of the OAA recipients received public assistance money payments to supplement their old-age, survivors, and disability insurance (OASDI) benefits in order to meet basic or special needs. The percentage of other types of public assistance recipients who also received social insurance was considerably smaller--about 18 percent in AB, 14 percent in APTD, and 6 percent in AFDC.

GEM STATE GROUP OPPOSES PLAN

[From the Lewiston, Idaho Tribune, September 21, 1968]

Any attempt to combine the Idaho Commission for the Blind with other rehabilitation and social welfare agencies into one super-agency for the state will be opposed by the Lewis-Clark chapter of Gem State Blind, the organization agreed.

With twenty-six gathered at the Clearwater Power Co. Auditorium, the chapter voted to "deplore and oppose" any such attempt and to commend the Idaho Commission for the Blind for "outstanding progress and

contributions to the well-being of the blind of Idaho."

The proposal for the super-agency was reviewed by Kenneth N. Hopkins, Boise, executive director of the Idaho Commission for the Blind. The Commission was formed last October and he was employed in December.

The recommendation for the large agency was based on a survey by the Budget & Finance Committee of the Idaho Legislative Council of the Idaho Department of Public Assistance and its relationship to other state agencies, including the blind commission. Hopkins said the report showed there was little duplication of services but some overlap of functions.

The suggestion for reorganization is that the Department of Public Assistance, the youth rehabilitation division of the Department of Health, the vocational rehabilitation division, now under the Department of Education, the Youth Training Center at St. Anthony and the Commission for the Blind be reorganized under one large agency, Hopkins said.

At the time he began his duties, he told the group, the only education for the blind had been on the professional level, either for those attending a university or to be employed at sheltered workshops "and nothing in between."

The main problem, he said, was the total lack of training for those who must learn to live as blinded persons.

For the newly blinded, "the shock is tremendous," said Hopkins. "You know it and I know it. The blinded person is lost in a sighted world. He needs to be able to find himself. . . and to live life in its broadest sense."

He said he began the new program with one teacher and one student, then two teachers and four students. The commission now has a staff of eight. They include rehabilitation counselors, home teachers and orientation teachers. The latter provide a concentrated course for those able to travel to Boise.

One of the original four students was a piano tuner whose business failed because he had lost his sight, Hopkins related. The man could still tune pianos, but "he could not take care of himself. He lived in a hotel, ate all his meals out and even though the hotel was only four blocks from his place of business, he had to take a cab each way," he said. The young tuner's business couldn't support these living expenses and he was finally forced to live on public welfare.

As the result of his training, the piano tuner has resumed his business and this year will pay a sizable state income tax, Hopkins told the group. "He is only twenty-five, so he probably will work forty years more," he said. "Think of the impact of just that one man."

The Gem State Blind chapter in its resolution said that whereas the blind commission is "immediately responsive" to the needs of the blind, this would not be possible "In a large agency charged with serving such diverse groups."

BLIND MEDICAL SECRETARIES TAKE JAWBREAKERS IN STRIDE

[Editor's Note: The following article was reprinted from Today's Health, published by the American Medical Association.]

Gastroenterostomy! Iliohypogastricus! Nervi intercostobrachiales!

Jaw breaking words like these would frighten the daylights out of the most competent and composed secretary--but not Mrs. Jane Betts, a medical secretary at Duke University Medical Center in Durham, North Carolina.

That such complicated terminology neither confuses nor throws out of joint any typing fingers is a remarkable achievement for anyone. More so for Mrs. Betts; she has been nearly blind since birth.

It was a little over two years ago, when her haughter Deborah became twelve, that Mrs. Betts went to work for the first time in her life. Since then she has become a medical secretary of considerable skill.

Mrs. Betts lives in a world in which the sound of a voice or the feel of something can mean so much. But ten nimble fingers, an extremely alert mind, and zeal for her work prevent Mrs. Betts' blindness from being a real handicap.

For a while it was, though. Mrs. Betts had been out of school for thirteen years when she heard about Duke's special program to train blind persons to be medical secretaries. The going was rough. She hadn't read much since leaving school.

At Duke, Mrs. Margaret Long, administrator of the training program, began to throw some big words at her--toughies like karyopyknosis, netrophil, and potassiomercuric. Mrs. Betts very nearly threw up her hands in despair. But she knew she'd be bored doing nothing.

More to her credit, she noted the words in Braille and practiced spelling them when she went home at night. Her private spelling bee lasted for several months and got to be something of a household joke in the Betts family. She'd do her housework, cook meals, wash dishes, and all the time she'd be spelling complex medical words. The homework paid off. After ten months she was placed as a secretary in the medical center.

Mrs. Betts is one of three blind secretaries at Duke, graduates of a unique program sponsored under agreement with the medical center by the Vocational Rehabilitation Division of the North Carolina State Commission for the Blind.

Since the program started in 1961, about thirty-five persons, including several men, have learned to be competent medical secretaries, much in demand by hospitals and doctors in several states.

While they are studying, the state pays them a maintenance stipend and provides them with dictaphones and any other tools they may need for the job, such as a six-volume Braille dictionary and a Braille medical dictionary.

There are times when Mrs. Betts needs help, such as when she's asked by her boss to pull books from the library shelves. But she is anxious not to let her handicap be a burden on anyone else.

"I know there are some things I can't do, but I try to make up for these by doing others especially well," she says. This kind of an attitude expressed by these handicapped secretaries has increased demand for their services. "They have proved just as capable as any sighted person," maintains Mrs. Long.

VISUALLY IMPAIRED PERSONS

The report from the National Center for Health Statistics presents statistics on the prevalence and degree of vision impairment among persons aged six years and over in the United States. Based on data collected by the Health Interview Survey during July 1963-June 1964, the estimates are related to certain demographic characteristics of the visually impaired population. Several comparisons are made between the total pupulation and the visually impaired population.

During the survey period an estimated 5,029,000 persons--31.3 per 1,000 population--reported vision impairment. Of these persons,

almost one million could not read ordinary newsprint, even with glasses, and over 300,000 could not see either the features of their friends or moving objects. Among the five million visually impaired persons, 58.4 percent, approximately three out of every five persons, were limited in the activities which they could perform. There was a higher prevalence of vision impairment among females, as well as a greater degree of impairment. Both the prevalence and degree of impairment increased with age for both sexes.

The sources and limitations of the data and classification procedures used are discussed fully. In addition to several text tables, 24 detailed tables provide statistics on the visually impaired persons by degree of impairment, sex, and age; by family income, educational level, and geographic region; by color, residence, and labor force status; and by degree of activity limitation associated with the visual impairment.

ESTIMATED TOTAL CASES AND NEW CASES OF LEGAL BLINDNESS BY STATE, 1967

[Editor's Note: The following table has been compiled and published by the National Society for the Prevention of Blindness and brings current the estimated total number of blind persons, by state, and the estimated number of new cases of blindness each year.]

State	Estimated Population July 1, 1967	Total Cases		New Cases	
		Rate*	Number	Rate	Number
U. S. Total	199,118,000	2.14	426,000	16.8	33,500
Alabama	3,559,000	3.08	10,950	20.7	750
Alaska	273,000	2.65	700	16.9	50
Arizona	1,644,000	2.53	4,150	16.7	300
Arkansas	1,981,000	2.69	5,350	19.9	400
California	19,237,000	1.84	35,400	15.2	2,950
Colorado	1,990,000	1.93	3,850	16.0	300
Connecticut	2,946,000	1.63	4,800	14.8	450
Delaware	525,000	2.13	1,100	15.8	100
District of Columbia	810,000	3.93	3,200	26.7	200
Florida	6,022,000	2.69	16,200	20.8	1,250
Georgia	4,541,000	2.84	12,900	19.6	900
Hawaii	747,000	3.98	2,950	21.5	150
Idaho	705,000	1.59	1,100	13.9	100
Illinois	10,970,000	2.03	22,250	16.7	1,850

State	Estimated Population July 1, 1967	Total Cases		New Cases	
		Rate*	Number	Rate	Number
Indiana	5,037,000	1.88	9,450	15.5	800
Iowa	2,782,000	1.77	4,900	15.9	450
Kansas	2,293,000	1.86	4,250	16.0	350
Kentucky	3,210,000	2.22	7,150	16.9	550
Louisiana	3,680,000	3.03	11,150	20.6	750
Maine	982,000	1.87	1,850	16.3	150
Maryland	3,704,000	2.16	8,000	16.6	600
Massachusetts	5,456,000	1.73	9,450	15.7	850
Michigan	8,637,000	1.91	16,500	15.1	1,300
Minnesota	3,608,000	1.64	5,900	14.9	550
Mississippi	2,350,000	3.68	8,650	25.1	600
Missouri	4,629,000	2.22	10,250	18.1	850
Montana	707,000	1.82	1,300	15.5	100
Nebraska	1,445,000	1.79	2,600	16.5	250
Nevada	446,000	1.95	850	15.3	50
New Hampshire	691,000	1.70	1,200	16.0	100
New Jersey	7,030,000	1.88	13,200	15.8	1,100
New Mexico	1,010,000	2.60	2,650	15.7	150
New York	18,420,000	1.96	36,100	16.5	3,050
North Carolina	5,078,000	2.72	13,800	18.7	950
North Dakota	646,000	1.69	1,100	14.9	100
Ohio	10,523,000	1.94	20,400	15.8	1,650
Oklahoma	2,509,000	2.22	5,550	17.5	450
Oregon	2,023,000	1.66	3,350	15.4	300
Pennsylvania	11,715,000	1.97	23,100	16.3	1,900
Rhode Island	906,000	1.71	1,550	15.4	150
South Carolina	2,614,000	3.20	8,350	20.3	550
South Dakota	679,000	1.85	1,250	16.4	100
Tennessee	3,923,000	2.52	9,900	18.2	700
Texas	10,936,000	2.40	26,250	16.7	1,850
Utah	1,029,000	1.39	1,450	11.6	100
Vermont	422,000	1.75	750	15.9	50
Virginia	4,569,000	2.59	11,850	18.0	800
Washington	3,117,000	1.75	5,450	15.4	500
West Virginia	1,816,000	2.09	3,800	15.8	300
Wisconsin	4,228,000	1.71	7,250	15.1	650
Wyoming	318,000	1.78	550	14.4	50

*Total Cases: Estimated rate per 1,000 population (Hurlin)

BLIND COUPLE FINDS HAPPINESS IN SMALL TOWN
[From the Van Buren County Register,
Keosauqua, Iowa, October 17, 1968]

Can a blind couple from the city, married in their late 30's, find happiness in a small town?

The answer is yes, and the situation is not one from a soap opera.

Mr. and Mrs. William Fuller, both legally blind since birth, have lived in Milton since a year ago last June, when Fuller, 40, went to work as guidance counselor for Fox Valley High School.

In that length of time the Fullers, who were married shortly before arriving in Van Buren County, have amazed everyone with whom they have come in contact.

"We almost forget they are blind, they manage so well," says Elmer Baskett, school superintendent, who did not know Fuller was blind until he met him when he was called for an interview concerning the guidance position.

Fuller, with a realistic attitude about his disability, frankly admits he didn't tell Baskett he was blind.

"It's too easy to say to a stranger over the phone, Well, we'll talk it over and let you know.'" He had learned through experience the attitude of too many potential employers, since shortly before he had sent out 133 job applications.

In each he stated that he was blind but considered himself qualified to teach or serve in some position helping other disabled persons. He had earned a BA degree at Iowa Wesleyan and a teaching certificate and Master's degree in guidance at Northeast Missouri State College in Kirksville.

Fewer than half a dozen responses were received, and Fuller did not consider these too promising, so when the Fox Valley call came, he was understandably quiet about his lack of sight.

Baskett, who had obtained Fuller's name from the Kirksville college, recalls he was surprised but favorably impressed with Fuller from the start.

"I was conservative enough to want to check with the board before offering a contract," Baskett says. The board was impressed, too, and

so began a happy arrangement for all concerned.

Mrs. Fuller, who keeps a spotlessly clean home about five blocks down Highway 2 from the high school, says they enjoy small town life. The biggest problem a blind person faces there is the lack of public transportation and a heavy flow of traffic. "You might think traffic would be considered a hazard," the attractive homemaker says, "But in Des Moines we were trained to use traffic sounds to travel with."

Both Mr. and Mrs. Fuller are graduates of the orientation center program of the Iowa Commission for the Blind in Des Moines. Neither can praise enough the efforts and accomplishments of the pioneering director, Kenneth Jernigan, himself blind.

Jernigan is credited with making Iowa "the best state in which to be blind."

Fuller was born with partial sight and went through 10th grade in public school with very limited vision, always experiencing great difficulty because, as he say, "I was trying to operate as a sighted person, which I was not."

Chief function of the orientation center is to "get the guy to accept the fact--like it or not--that he is blind," Fuller explains.

At the center where students live-in, a program is started which may last from a month to a year to train each person to make the most of his own abilities while accepting the fact that he can't see.

"We are taught to steer away from the word 'handicap,'" Fuller points out, "Because the handicap is usually the person's own attitude."

The philosophy of the Commission and Director Jernigan is this: The real problem of blindness is not the loss of eyesight. The real problem is the misunderstanding and lack of information which exists. If a blind person has the proper training and if he has opportunity, blindness is only a physical nuisance.

There usually is a waiting list at the orientation center, which formerly took from 25 to 30 students at a time. Just recently, however, a shortage of teachers has necessitated a drop to 14 students.

The blind learn to walk around downtown Des Moines, and the sight of a group of blind people with their white fiberglass canes has

become commonplace in that city since Jernigan opened the center 10 years ago.

Although the center is tax supported, in the long run it saves the taxpayers money since graduates of the program usually have no need for aid to the blind, Mrs. Fuller points out.

At Fox Valley School, Fuller teaches a class in economics and supervises a study hall in addition to the regular duties of a guidance counselor. He usually walks to school from his home. He is assisted with paper work by three high schoool girls who volunteer work in their spare time.

Fuller, who does not own a seeing eye dog, says, "I would like a dog, but really it would not be very humane to make a dog lie here and wait eight hours a day. A cane you can just stand in the corner and it will be right there when you want it."

Both he and his wife "read" and "write" either in Braille or by using a tape recorder. Fuller's economics textbook has been put on tape by one of the many readers available through the Commission for the Blind in Des Moines.

Fuller explained his drive to complete college as a compelling one because he could not find suitable work. At schools for the blind about the only training offered was in weaving or brush making.

"You couldn't possibly make a decent living doing the things a blind person was 'expected' to do in those days," he says. This is one reason he waited so long to marry--he was financially unable to support a wife.

Fuller had even tried construction work, a hazardous trade for a man without sight. After completing college and by then completely blind, Fuller spent a little more than a year at the orientation center.

Mrs. Fuller, who spent a year there before her husband started the program, met him during one of the frequent field trips sponsored by the center.

Mrs. Fuller was Nyla Wisecup before her marriage, and graduated from high school at Stanhope Consolidated near Boone. Although she was not lacking for work, she decided to go through the orientation program because, as she puts it, "I felt I must become independent."

Anyone who has watched her move about her neat house can attest to the fact that independent she is.

One of her kitchen cupboards is full of braille cookbooks, and friends say it's a rare day when she is without cake, rolls or cookies to serve along with coffee to guests who drop in. She does all of her own housework and cooking.

One day this month she made three large pans of layered gelatin salad because she was serving as co-hostess for a meeting of the Milton Woman's Club.

RESIDENCE REQUIREMENTS FOR AID TO THE BLIND

The National Federation of the Blind has vigorously sought to have the Congress prohibit any state from imposing a durational residence requirement as a condition to receive needed public assistance for the blind. If the goal of self-support is to have any reality for many recipients of Aid to the Blind, they must be free to move from one part of the country to another in search of greater economic opportunities.

Of the fifty states, only seven have no state durational residence requirement for Aid to the Blind. Of the forty-three states still having such eligibility requirements, thirteen require five years residence (the maximum permitted under the Social Security Act); four states require three years residence; two require two years; and twenty-four states require one year of residence.

The amount of federal funds in the Aid to Blind payments made through the states ranges from fifty percent to eighty-three percent, depending on the per capita wealth of the particular state. If this much of the funding is coming from the federal taxpayer, why should any state have the right to refuse Aid to the Blind until an American citizen, even though he may be needy, has lived in that state for a given number of years.

Undoubtedly many of the NFB affiliates will continue to seek relief from this onerous provision by requesting their legislatures to remove residence as a requirement for Aid to the Blind. Some such statutory provision as follows would be all that it takes:

"Residence. No person is entitled to aid under the provisions of this chapter unless he is a resident of the State. No period of residence in this State is required."

It is significant that, in enacting medical care for the needy provisions under Title XIX of the Social Security Act in 1965, the Congress prohibited any state which wished to receive federal financial partification in its medical care program from imposing any durational state residence requirement on the beneficiaries of the program. We can hope that this same provision will be applied also to those receiving public assistance under other provisions of the same Social Security Act.

However, even before the Congress has another opportunity to act in this matter, it is entirely possible that the United States Supreme Court will act on the several cases before it testing the constitutionality of state residence requirements for public assistance. Federal District Courts have already struck down residence requirements in the District of Columbia, Connecticut, Pennsylvania, Illinois, Wisconsin, Delaware, and California. The Supreme Court is expected to rule on these cases sometime after it rehears arguments during its Fall Term which opened in October.

In 1955 the late Professor Jacobus tenBroek, Founder and longtime President of the NFB, wrote a brilliant treatise on this subject entitled"The Constitution and the Right of Free Movement" which was published by the National Travelers' Aid Association. Following is Professor tenBroek's definitive work.

The Constitution and The Right of Free Movement

Jacobus tenBroek

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The Constitution and The Right of Free Movement

THE MAIN legal implications of population movements are those to be found in the Constitution of the United States, made by its own terms and by its organic nature the supreme law of the land, overriding all other forms of law and administration exercised in conflict with it. I shall therefore focus attention on the bearing of the Constitution of the United States upon the movement of people to and within the United States.

To what extent and in what way does the Constitution deal with this subject? Is there a constitutional right of free movement: the right to elect to remain where one resides; to leave and go elsewhere within the country to any place and by any route of one's choice; to enter the new community upon terms of equality with those already there? What is the scope of federal authority over these matters? What state and local action is possible affecting entrance of persons from other states or localities or treating newcomers differently from long-time residents? For what purpose and by what tests may those in need of welfare aids and services be differentiated in ways that relate to population movements?

It is easier to pose these questions than to answer them. In some relevant areas, the Constitution is silent. In others, the language is not clear. In still others, clear constitutional language has been rendered unclear, or modified, or even vitiated by judicial decisions. Moreover, on these issues, as on others, there have been shifting trends, if not fluctuating tendencies, in the Supreme Court. National history, too, has played its inescapable role. Whatever may be said in the Parchment, the migrational foundations of the nation, the ceaseless movement of the population into the wilderness and into the west after it was settled, the diverse and world-scattered ancestry and origins of our people, the melting pot aspects of our background and composition (though the pot may be somewhat tarnished and the mixture still bubbles)—these are basic facts of our past which have woven themselves into the fabric of the nation and are institutional and attitudinal determinants today. Finally, the creative application of constitutional principles is and must be the rule in the present and the future development of the nation as it has been throughout our history. It is within these limits and guided by these factors that I shall attempt to answer the questions posed.

1. The Right to Remain Where You Are

The right of free movement begins with the right not to move. The choice whether to move, no less than the choice where to move, is an inseparable aspect of free movement. If you do not have the right to be where you are, if you do not have the right to decide whether to stay or to go, if you must leave even though you wish to remain, your movement is compulsory and not free at all. Do you, then, have a constitutional right to be where you are, to remain where you reside? To put the same question in another way, may the federal, state, or local government require you to move from where you are either to a place of your own choice or to one officially designated?

If you had no lawful right to go there to begin with and proceeded thither illegally, if, for example, you are a wetback in Texas, New Mexico or California, the government clearly has the authority to expel you. In this case, neither the right to go nor the right to remain had constitutional protection. Let's assume, however, that you established your abode lawfully.

The Constitution of the United States nowhere explicitly says that you have a right to remain where you are, to reside unmolested in your home community. One would think that this right is a central idea in the progress from nomadic to settled society. One would think, moreover, that it is an underlying presupposition of the whole system of personal rights recognized and safeguarded by the Constitution. It would seem to be most clearly essential to the personal liberty which is guaranteed by the due process clause of the Fifth and Fourteenth Amendments. It would seem also to be implicit in the right of the person to be secure in his house as provided in the Fourth Amendment. It is involved in the First Amendment rights of freedom of speech, press, assembly and petition.

These rights may be exercised not only wherever you are but where you are.

Yet despite these facts, and surprising as it may seem, the Supreme Court has never unequivocally held that the right to remain where you are is a federally protected Constitutional right. It has indeed sweepingly declared that peacefully to dwell within the limits of one's state, to move at will from place to place therein, and to have free ingress thereto and egress therefrom is "a fundamental right, inherent in citizens of all free governments."[1] Yet in the very case in which the Supreme Court uttered this language, it held that the protection of the right was left by the Constitution to the authority of the states and a violation of it by private individuals was not federally punishable.

THERE ARE of course well known instances in American history in which this right has been violated and without redress. The Indians on the frontier or behind it, to speak of non-citizens, or the Mormons in Missouri, to speak of citizens, could rightfully testify with some feeling on this subject. There were widespread expulsions of I.W.W.'s in the early 1920's. These came under the scrutiny of the Supreme Court in *United States v. Wheeler*. Two hundred and twenty-one citizens of the United States, 196 of whom were citizens and residents of the State of Arizona, and 25 of whom resided in but were not citizens of Arizona, were forcibly removed from Arizona to New Mexico. The Supreme Court concluded that the actions were those of private individuals in which neither state officials nor local sheriffs had participated and that they were therefore to be punished by state authority if at all.

The evacuation of Japanese Americans from the west coast during World War II, the most recent and the most stupendous forced mass movement of citizens in the history of the United States, could not be judicially glossed over as mere private action subject only to state redress. The evacuation was conducted by the federal government itself. It consisted of uprooting, removing, excluding and detaining 112,000 Japanese Americans, two-thirds of whom were native-born American citizens and the rest of whom were longtime residents.

If there is a constitutional right to remain where one resides, to establish and maintain a home, to live and work where one chooses, to move about freely; and if there is a right not to be deprived of these rights except upon an individual basis and after due notice, hearing, fair trial and all of the procedural guarantees of due process, then certainly these rights were flagrantly abrogated by the government in this episode. The Supreme Court gave constitutional sanction to the evacuation. In doing so, it did not say that these rights did not exist. On the contrary, it presupposed their existence. It argued that the circumstances were special, that war conditions and pressing public necessity justified what could not otherwise be allowed constitutionally. In addition to the deprivation of these rights, the war emergency justified, said the Court, a discriminatory racial classification, though distinctions based on race are odious to a free people whose institutions are founded on equality.[2]

The military circumstances surrounding the evacuation of Japanese Americans and the reliance of the Supreme Court upon them in sustaining the evacuation are, in some measure, matters of common knowledge. The part played in the episode, particularly in detention, by civil authority and by concepts of social planning is not so well understood, though it is in fact of even greater importance. The historical fact is that whatever may be said of the military's participation in its legal authorization and in its execution, the program for the wartime detention of the Japanese American population resulted not from a judgment of military necessity made by the military but from a judgment of social desirability made by civilians.

A clearcut statement in General DeWitt's *Final Report* bears upon the attitude of the Western Defense Command toward the introduction of detention and the nonmilitary reasons for it.

> "Essentially, military necessity required only that the Japanese population be removed from the coastal area and dispersed in the interior. . . . That the evacuation program necessarily and ultimately developed into one of complete federal supervision, was due primarily to the fact that the interior states would not accept an uncontrolled Japanese migration."[3]

The reasoning of the War Relocation Authority is plainly set forth in a remarkable pamphlet prepared by WRA lawyers and published over the signature of the Director of the WRA and the Secretary of the Interior.

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[1]United States v. Wheeler, 254 U.S. 281 (1920).

[2]Korematsu v. United States, 323 U.S. 214 (1944); Hirabayashi v. United States, 320 U.S. 81 (1943).

[3]*Final Report, Japanese Evacuation from West Coast, 1942* (Washington, G.P.O. 1943), pp. 43-44.

"Detention was a policy which the responsible officers of WRA decided upon reluctantly, out of a conviction that no other course was administratively feasible or genuinely open to them. The agitation for mass evacuation had repeatedly asserted that west coast residents of Japanese ancestry were of uncertain loyalty. The Government's later decision to evacuate was widely interpreted as proof of the truth of that assertion. Hence, a widespread demand sprang up immediately after the evacuation that the evacuees be kept under guard, or at the very least, that they be sorted and that the dangerous ones among them be watched and kept from doing harm. In these circumstances it was almost inescapable that the program administrator should come to the conclusion that if the right of free movement throughout the United States was to be purchased for any substantial number of the evacuees, the price for such purchase would have to be the detention of all the evacuees while they were sorted and classified, and then the continued detention of those found potentially dangerous to internal security. The detention policy of WRA was born out of a decision that this price would have to be paid, that it was better to pay this price than to keep all the evacuees in indefinite detention, and that to refuse to pay this price would almost certainly mean that the prevailing fear and distrust could not be reasoned with and could not be allayed."[4]

Speaking of the leave program, the pamphlet continued:

"These conditions to departure—that the evacuee shall have been found to be non-dangerous to internal security, that he shall have a job or some other means of support, that there shall be 'community acceptance' at his point of destination, and that he shall keep the Authority notified of his change of address —represented, in fact, the heart of the relocation program. They were designed to make planned and orderly what must otherwise have been helter-skelter and spasmodic. . . .

"If the constitutionality of the evacuation itself be assumed, the situation that was inevitably created by the evacuation does of itself give rise to new problems which Government must undertake to solve by appropriate means.

"Thus, the conditions attached to departure from the centers enabled a sifting of a possibly questionable minority from the wholesome majority whose relocation it became the principal object of WRA to achieve. These restrictions enabled WRA to prepare public opinion in the communities to which the evacuees wished to go for settlement, so as to avoid violent incidents, public furor, possible retaliation against Americans in Japanese hands, and other evil consequences. The leave regulations 'stemmed the flow'; they converted what might otherwise be a dangerously disordered flood of unwanted people into unprepared communities into a steady, orderly, planned migration into communities that gave every promise of being able to amalgamate the newcomers without incidents, and to their mutual advantage. The detention, in other words, was regarded as a necessary incident to this vital social planning."[5]

Even as to the disloyal, detention was not justified as a means of preventing them from committing acts harmful to the war effort.

"WRA took the position that it sought to detain those deemed ineligible to leave until after all those deemed eligible had been relocated. Such detention, it maintained, was necessary to build upon public acceptance of those found eligible to relocate. The detention was thus regarded as an essential step in the accomplishment of the relocation objective. Since the war ended before relocation of the eligibles had been completed, the Government never had to face the question of whether it could or would attempt to detain those deemed ineligible after the relocation objective had been fully achieved."[6]

The only course "genuinely open" or "administratively feasible"; the purchase price for "the right of free movement"; "a method of allaying popular fear and distrust"; "a necessary incident to . . . vital social planning"; "an essential step in the accomplishment of the relocation objective"—these are hardly the categorical imperatives of military necessity. They are the social desiderata of welfare planners.

THE ISSUE of relocation-center detention was squarely and unavoidably presented to the Court in the *Endo* case.[7]

In that case, the Supreme Court invalidated relocation-center detention for persons whose loyalty was conceded and who therefore were clearly

[4] *Legal and Constitutional Phases of War Relocation Authority*, U. S. Department of Interior, War Relocation Authority (Washington, G.P.O. 1946), p. 11.
[5] *Ibid.*, pp. 12-13.
[6] *Ibid.*, p. 15.
[7] *Ex parte* Endo, 323 U.S. 283 (1944).

held in confinement or subjected to leave procedures and conditional release for social rather than for military reasons. The ground for the action was that WRA and the WDC lacked authority to make such detention under the pertinent executive orders and congressional legislation. The majority of the Court steadfastly declined to place its holding upon a constitutional basis, though some of the reasons given for confining the executive orders and legislation to a narrow scope were equally, if not more, compulsive of a constitutional negative on the program. The Court, however, was content to refer to the relevant constitutional provisions "not to stir the constitutional issues which have been argued at the bar but to indicate the approach which we think should be made to an act of Congress or an order of the Chief Executive that touches the sensitive area of rights specifically guaranteed by the Constitution."[8]

If traditional constitutional doctrines were to be applied, it is difficult to see how the detention of a concededly loyal citizen, not charged and convicted of crime, could escape constitutional condemnation. Certainly, such detention cannot constitutionally be justified as "a necessary incident" of "vital social planning" or as the purchase price "of the right of free movement throughout the United States . . . for any substantial number of the evacuees." Rendering "planned and orderly what must otherwise [be] helter-skelter and spasmodic" is not a power conferred by the Constitution on the national government; and the purchase price of the right of free movement of citizens was paid a long time ago. To exact a new purchase price, in these circumstances, would ordinarily go by the name of extortion. Imprisonment of a hapless racial minority as an element in "vital social planning" for the improvement of race relations hardly seems a promising approach either to the Constitution or to the problem of race relations.

Mass and racially discriminatory incarceration of well over 100,000 persons as a result of "vital social planning" to protect them against community hostility is the compulsory acceptance of an unwanted benefit which can be constitutionally justified, if at all, not in terms of the good done for the victims but in terms of the interest of society. In the words of one commentator, "the theme of benefaction which runs through the utterances of the military as well as, subsequently, of the War Relocation Authority, may have given the officials involved a feeling of satisfaction, it does not make the deprivations and restraints imposed on the donees any more constitutional."[9] Detention of the entire group while they were being sorted and classified as to loyalty, justified not on military grounds but as a means of reasoning with and allaying "prevailing popular fear and distrust"; detention of disloyals, not in order to prevent activities harmful to the war effort, but "as necessary to build acceptance of those found eligible to relocate," and thus "as an essential step in the accomplishment of the relocation objective"—these are merely variants of the selfsame protective custody argument that "it was all for their own good." As such, they stand upon the same constitutional footing as the detention of concededly loyal citizens pending efforts by the WRA "to prepare public opinion in the communities to which the evacuees wished to go."

2. *The Right to Move Elsewhere*

Do you have a right, if you so desire, to leave the place of your residence and move elsewhere in the United States to some other place of your choice and by a route and means of travel of your selection?

That you may move about, at least within your community, is simply another way of saying that you are not imprisoned. The right not to be imprisoned, except for crime and by due process of law, is constitutionally safeguarded against federal and state action by the clause in the Fifth and Fourteenth Amendments forbidding deprivation of liberty except by due process of law. The counterpart of this clause is to be found in the declaration in Magna Carta "No free man shall be taken or imprisoned except by the lawful judgment of his peers or by the law of the land." In fact, though the word liberty in the due process clause has come over the years to be filled with much additional content, this meaning, i.e., freedom of the person from physical restraint as by incarceration, is the primary and historical meaning. The right to move about in one's community, then, is constitutionally guaranteed against federal and state invasion by virtue of the due process clause of the Fifth and Fourteenth Amendments. As the horizons of the community grew to encompass the nation, the utilization of this clause for the protection of the right of free movement anywhere within the country would seem to have been almost unavoidable.

[8] *Ibid.*

[9] Nanette Dembit, "Racial Discrimination and the Military Judgment: The Supreme Court's Korematsu and Endo Decisions," *Columbia Law Review* (1943), pp. 202-203.

The Court, however, did avoid it. Though it has occasionally said that "the right of locomotion, the right to remove from one place to another, according to inclination is an attribute of personal liberty," the Court has never backed up this talk with holdings.[10]

To answer the question— Do you have the right to move about the country at will?—the decisions of the Supreme Court dealing with three clauses of the Constitution must be particularly examined: Article I, Section 8, Clause 3 providing that Congress shall have power to regulate commerce among the several states and with foreign nations; Section 1 of the Fourteenth Amendment providing that "no State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States"; and Article IV, Section 2, providing that "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

a. The Commerce Clause. The United States Supreme Court has established the proposition that the transportation of persons is commerce and that their transportation to this country or across state lines is foreign or interstate commerce.[10a] Such transportation is therefore subject to the regulatory power of Congress and to the constitutional doctrines developed by the Supreme Court regarding that power.

Significantly, many of the landmark cases in this field have been fought out not in the economic and financial terms of commercial relations that one might expect in connection with the interpretation of a power to regulate commerce but in the welfare terms of health, morals, public relief and the needs of the destitute and the underprivileged. In these cases, the Supreme Court has, for the most part, acted to keep open the channels of population movement. It has struck down state-erected barriers to such movement, whether the welfare considerations adduced by the state for its action were a cloak for other than welfare objectives or were genuine; and whether the barrier was so high as to stop such movement altogether or was a relatively minor burden in the form of a small per capita tax.

The first of the important Supreme Court cases in this field was *New York v. Miln*[11] decided in 1837. It has since been largely overruled and was, in fact, of little substantive importance when decided if narrowly confined to its actual holding. It is remarkable mainly for the welfare views which the Court expressed. In *New York v. Miln* the Court upheld a New York statute requiring ship-owners, officers and consignees to report the names, place of birth, last legal settlement, age and occupation of all persons brought to New York from other states or foreign countries. Over the protest of Chief Justice Marshall and Justice Story, the majority of the Court held the statute to be a regulation of police, not of commerce. The data on passengers would enable the city to take the necessary steps to prevent them from becoming chargeable as paupers, thus safeguarding the citizens of New York "from being oppressed by the support of multitudes of poor persons." "It is as competent and necessary for a state," said the Court, "to provide precautionary measures against the moral pestilence of paupers, vagabonds and possibly convicts as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported, or from a ship, the crew of which may be laboring under an infectious disease."

IN THE *Passenger Cases* decided in 1849[12] and in *Henderson v. New York* decided in 1875, the Supreme Court retracted the constitutional doctrine enunciated in *New York v. Miln* and reformulated its views about immigration. In those cases a per capita tax on passengers imposed by various states not exceeding $1.50 per person was held unconstitutional as a violation of Congress' power to regulate foreign commerce. Wrote Justice Miller:

> Since 1824 "the transportation of passengers from European ports to those of the United States has attained a magnitude and importance far beyond its proportion at that time to other branches of commerce. It has become a part of our commerce with foreign nations, of vast interest to this country as well as to the immigrants who come among us to find a welcome and a home within our borders. In addition to the wealth which some of them bring, they bring still more largely the labor which we need to till our soil, build our railroads, and develop the latent resources of the country in its minerals, its manufactures, and its agriculture. Is the regulation of this great system a regulation of commerce? Can it be doubted that a law which prescribes the terms on which vessels which engage in it, it is a law regulating this branch of commerce? A law or rule . . . which

[10] Williams v. Fears, 179 U.S. 270 (1900).

[10a] Henderson v. Mayor of New York, 92 U.S. 259 (1875); Gloucester Ferry Co. v. Pennsylvania, 114 U.S. 196 (1885); Edwards v. California, 314 U.S. 160 (1941).

[11] 11 Pet. 102.

[12] 7 How. 283.

prescribes terms or conditions on which alone the vessel can discharge its passengers, is a regulation of commerce; and, in case of vessels and passengers coming from foreign ports, is a regulation of commerce with foreign nations."[13]

In *Chy Lung v. Freeman*,[14] the Court struck down a state statute of California which it characterized as designed to extort money from a large class of passengers, or to prevent their immigration to California altogether.

The statute provided:

> "That the Commissioner of Immigration is 'to satisfy himself whether or not any passenger who shall arrive in the State by vessel from any foreign port or place (who is not a citizen of the United States) is lunatic, idiotic, deaf, dumb, blind, crippled, or infirm, and is not accompanied by relatives who are able and willing to support him, or is likely to become a public charge, or has been a pauper in any other country, or is from sickness or disease (existing either at the time of sailing from the port of departure or at the time of his arrival in the State) a public charge, or likely soon to become so, or is a convicted criminal, or a lewd or debauched woman'; and no such person shall be permitted to land from the vessel, unless the master or owner or consignee shall give a separate bond in each case, conditioned to save harmless every county, city, and town of the State against any expense incurred for the relief, support or care of such person for two years thereafter.
>
> "It is expressly provided that there shall be a separate bond for each passenger, that there shall be two sureties on each bond, and that the same sureties must not be on more than one bond; and they must in all cases be residents of the State.
>
> "If the shipmaster or owner prefers he may commute for these bonds by paying such a sum of money as the commissioner may in each case think proper to exact; and, after retaining twenty per cent of the commutation money for his services, the commissioner is required once a month to deposit the balance with the Treasurer of the State."

The Court found that this statute contravened the national power to regulate foreign commerce, a power which devolved exclusively upon the national government the responsibility to determine the character of the regulations and the manner of their execution. The Court made it plain that it thought the welfare policy of the statute merely a cloak for legalized extortion. It indicated, however, that were this not the case, the state would not be allowed to exclude the listed groups or hinder their entrance merely because their presence might extend the relief obligations of the state.

> "The money when paid would not go to the benefit of immigrants," observed the Court, "but is paid into the general treasury of the State, and devoted to the use of all her indigent citizens. The blind, or the deaf, or the dumb passenger is subject to contribution, whether he be a rich man or a pauper. The patriot, seeking our shores after an unsuccessful struggle against despotism in Europe or Asia, may be kept out because there his resistance has been adjudged a crime. The woman whose error has been repaired by a happy marriage and numerous children, and whose loving husband brings her with his wealth to a new home, may be told she must pay a round sum before she can land, because it is alleged that she was debauched by her husband before marriage. Whether a young woman's manners are such as to justify the commissioner in calling her lewd may be made to depend on the sum she will pay for the privilege of landing in San Francisco."

THE FINAL case in this line is of course *Edwards v. California*[15] which involved the dust bowl migrations of the depression era. California sought to stem the flow across her borders by making punishable for misdemeanor any person, firm or corporation "that brings or assists in bringing into the state any indigent person who is not a resident of the state, knowing him to be an indigent person." The Court invalidated the statute as an unconstitutional invasion of the national power over interstate commerce. The Court did so over the claim of California that "the huge influx of migrants . . . resulted in problems of health, morals, and especially finance," of "staggering" proportions.

> Even so, said the Court, "this does not mean that there are no boundaries to the permissible area of state legislative activity. There are. And none is more certain than the prohibition against attempts on the part of any single state to isolate itself from difficulties common to all of them by restraining the transportation of persons and property across its borders. It is frequently the case that a state might gain a momentary respite from the pressure of events

[13] Henderson v. New York, *supra* note 10a, pp. 270-71.
[14] 92 U.S. 275 (1875).
[15] *Supra* note 10a.

by the simple expedient of shutting its gates to the outside world. But, in the words of Mr. Justice Cardozo: 'The Constitution was framed under the dominion of a political philosophy less parochial in range. It was framed upon the theory that the peoples of the several states must sink or swim together and that in the long run prosperity and salvation are in union and not in division.' "

To California's contention that its law rested on a firm foundation in English and American history that each community was responsible for the relief of its own indigents and that a state might interfere with the interstate transportation of persons to the extent of keeping paupers out, the Court replied that "the theory of the Elizabethan poor laws no longer fits the facts" and "it will not now be seriously contended that because a person is without employment and without funds he constitutes a 'moral pestilence.' Poverty and immorality are not synonymous."

Thus, to a considerable extent the United States Supreme Court has placed the protection of the right of free movement in the clause of the Constitution which confers upon Congress the power to regulate commerce among the several states and with foreign nations. Has this clause been a wise judicial choice? Is it a secure foundation for the protection of a right which is far more important than some of those explicitly guaranteed in the Bill of Rights? Has the clause given adequate protection to the right in the past and is it likely to prove equal to the task in the future? Several considerations may be called to mind.

ALTHOUGH the Commerce Clause confers the power to regulate on Congress, this does not mean that the states are wholly shorn of regulatory power. The Supreme Court has long held that, in the absence of conflicting legislation by Congress, there is a residuum of regulatory power in the states. They may pass laws governing matters of local concern which because of their number and diversity do not demand or lend themselves easily to uniform national control. They may do this even though the laws affect or regulate interstate commerce. Under this doctrine, some state legislation controlling or preventing the free movements of persons across state lines is constitutionally permissible. States may, for example, enact quarantine laws. Such laws, moreover, need not be confined to restricting the movement of persons out of quarantine areas or to the exclusion of diseased persons seeking to come into the state or community from elsewhere. A state has been upheld in authorizing its Board of Health to prohibit the introduction into any infected portion of the state of "persons acclimated, unacclimated or said to be immune when in its judgment the introduction of such persons would add to or increase the prevalence of the disease." Under this statute, the Board of Health of Louisiana prevented the landing at New Orleans of a perfectly healthy shipload of Italian immigrants and returning American citizens, no one of whom was found to be diseased.[16]

Though the states may regulate local matters or matters which are scattered, numerous and diverse, and thereby and to that extent regulate interstate commerce, they may not, even though Congress has taken no action, regulate those phases of the national commerce with respect to which uniformity of regulation is of predominant national concern and which can therefore only be accomplished by a single regulatory authority. Between these two extremes, between the local and the diverse, on the one hand, and the national and the uniform, on the other, lies, in Chief Justice Stone's words "the infinite variety of cases, in which regulation of local matters may also operate as a regulation of commerce, in which reconciliation of the conflicting claims of state and national power is to be attained only by some appraisal and accommodation of the competing demands of the state and national interests involved."[17]

In many of the cases above discussed in which the Supreme Court ruled against state restrictions on interstate and foreign commerce, the state was encumbering or prohibiting mass population movements, either the countless thousands streaming from Europe and Asia in the last century or the westward migration of Texies, Arkies and Okies from drought, dust and depression in the 1930's. In *Henderson* and *Edwards* especially, great stress was laid on this fact. Suppose the movement were not large scale and occurred in a more restricted locality though to some extent spilling over state lines. Would it then be less "a matter of national concern" and "admit of diverse treatment by the several states?" Would it then be of "such a nature" as to demand that, if regulated at all, the regulation must be prescribed by a single authority? Would it then fall into the "infinite variety of cases . . . in which

[16]Compagnie Francaise de Noveglion a Vapeur v. Louisiana State Board of Health, 186 U.S. 380 (1902).
[17]Southern Pacific Co. v. Arizona, 325 U.S. 761 (1945).

reconciliation of the conflicting claims of state and national power is to be attained only by some appraisal and accommodation of the competing demands of the state and national interests involved?" We can not be sure of the answer, though there is language in the *Edwards* case indicating that any "transportation of indigent persons from state to state clearly falls within" the class of subjects which may only be regulated by Congress.[18]

THE EXISTENCE of one definite area and another indefinite area in which the states may encumber or prevent the free flow of persons across their borders renders the Commerce Clause a partial and inadequate foundation for the protection of the right of free movement. That foundation is weakened still further by the much more important fact that the Commerce Clause is after all a grant of power, the power to regulate! "The power to prescribe the rule by which commerce is to be governed." Congress is vested with that power and the power is complete. It extends to the areas already occupied by Congress, to the area not occupied by Congress but judicially withdrawn from state authority, and to the areas which the states have been allowed to occupy. Congress may redefine the distribution of power over interstate commerce. It may permit the states to regulate interstate commerce in ways which the Court would not permit in the absence of a congressional directive. It may forbid the states to regulate matters of peculiarly local concern which affect interstate commerce.

Moreover, in its own regulation of interstate commerce. Congress is not confined to measures designed to promote, advance, facilitate or increase that commerce. It may indeed regulate that commerce in order to achieve ends which are unrelated to commerce. It may absolutely prohibit the transportation of persons in interstate commerce, for the power to regulate, it has long been decided, includes the power to prohibit. Congress has, for example, under the Lindbergh law made capitally punishable any person who knowingly transports or causes to be transported or aids or abets in transporting in interstate commerce any person who shall have been unlawfully seized, confined, inveigled, deployed, kidnapped, abducted or carried away and held for ransom and reward. Again, under the Mann Act, it is made a felony knowingly to transport, cause to be transported, aid or assist in obtaining transportation for or transport in interstate commerce any woman or girl for the purpose of prostitution or debauchery or for any other immoral purpose. This act has been held to apply to obtaining transportation of a woman for immoral purposes, although no commercial element was present in the immorality, and although the immorality did not occur in the course of interstate transportation.[19] The Mann Act has also been held to apply to the transportation across state lines of plural wives by members of a religious sect believing in polygamy.[20] Thus, Congress may make deprivation of the right to move across state lines, whether for temporary sojourn or for permanent residence a sanction for whatever standards of conduct it may choose to accept or impose in any field of human endeavor.

FINALLY, there is something incongruous, grotesquely incongruous, about treating migrating people as mere subjects of commerce. Politics, economics, religion; poverty, misfortune, persecution; war, pestilence, disaster; hope, adventure, the lure of gold, of uranium, ambition, opportunity—out of these vital human and social elements are migrations compounded; and out of these, not to speak of citizenship and government in a democracy, springs the right of free movement. To equate the movement of people with the transportation of merchandise is to put a human right on the same level as a financial transaction. "The migrations of a human being," wrote Justice Jackson in the *Edwards* case, "of whom it is charged that he possesses nothing that can be sold and no wherewithal to buy, do not fit easily into my notions as to what is commerce. To hold that the measure of his rights is the Commerce Clause is likely to result eventually either in distorting the commercial law or in denaturing human rights."

When protected under the Commerce Clause, free movement is not a constitutional right. It is not guaranteed to individuals against governmental invasion. It is not to be claimed by the person as vouchsafed to him in the fundamental law and judicially maintained as such. It is the subject of explicitly vested legislative power, to be controlled,

[18]In Williams v. Fears, *supra* note 10, a state tax on business of hiring persons to labor outside the state was sustained. The amount of the tax on the so-called emigrant agents was $500 for each county in which he conducted business. "If this tax can be said to affect the freedom of egress from the State . . . it is only incidentally and remotely," said the Court.

[19]Caminetti v. United States, 242 U.S. 470 (1917).

[20]Cleveland v. United States, 329 U.S. 14 (1946).

regulated, prohibited, it may be, obliterated; and the power is restrained only by the judgment and wisdom of Congress and the influence of its constituents.

b. The Privileges and Immunities Clause of the Fourteenth Amendment. One considerable effort to establish free movement as a constitutional right revolved about the Privileges and Immunities Clause of the Fourteenth Amendment—"No State shall make or enforce any law abridging the Privileges and Immunities of Citizens of the United States."

Before the promulgation of the Fourteenth Amendment in 1868, the Supreme Court had handed down its decision in *Crandall* v. *Nevada* striking down a state capitation tax of one dollar per person levied upon all persons leaving the state whether residents or travelers upon any instrumentality engaged in the business of transporting passengers for hire.[21] The ground taken by the Court was that the tax constituted an interference (which could be increased until it became a prohibition) with the exercise by the United States of its governmental functions. The United States, said the Court, has the right to the services of its citizens in the offices and activities of the government; citizens, correlatively, have the right to access to the government and its instrumentality throughout the country at all times. These rights cannot be subjected to the pleasure and control of the states.

Certainly, after the adoption of the Fourteenth Amendment, the doctrine of the *Crandall* case would have been translated into the language of the Privileges and Immunities Clause; and there has been some subsequent judicial rhetoric to this effect.[22] The Privileges and Immunities Clause, however, was strangled by the Supreme Court while it was yet an infant, and, with some slight signs of animation upon a few rare occasions thereafter, it has remained dead ever since.[23]

A strong effort to resurrect it and to use it for the protection of a right of free movement was made by four justices in the *Edwards* case in which five justices clung to the Commerce Clause. The force of the reasons advanced by the four justices was not of course diminished by the refusal of the majority to accept them. Those reasons deserve repetition.

[21]Crandall v. Nevada, 6 Wall. 35 (1867).
[22]Twining v. New Jersey, 211 U.S. 78 (1908).
[23]Slaughter House Cases, 16 Wall. 36 (1873).

Mr. Justice Douglas, one of the four, argued that if a state tax on the right of free movement is invalid because it burdens the rights of national citizenship, then, *a fortiori*, a state prohibition of such movement is invalid. To allow an exception to the right with respect to those who are poor would be "to contravene every conception of national unity. It would also introduce a caste system utterly incompatible with the spirit of our system of government. It would permit those who were stigmatized by a state as indigents, paupers, or vagabonds to be relegated to an inferior class of citizenship. It would prevent a citizen, because he was poor, from seeking new horizons in other states. It might thus withhold from large segments of our people that mobility which is basic to any guarantee of freedom of opportunity. The result would be a substantial dilution of the rights of national citizenship, a serious impairment of the principles of equality."

> "This court should . . . hold squarely," said Justice Jackson, another of the four, "that it is a privilege of citizenship of the United States, protected from state abridgment, to enter any state of the Union, either for temporary sojourn or for the establishment of permanent residence therein and for gaining resultant citizenship thereof." Birth within the territory and jurisdiction of the nation creates national citizenship. State citizenship results only from residence and is gained or lost therewith. "That choice of residence was subject to local approval is contrary to the inescapable implications of the westward movement of our civilization." "We should say now . . . that a man's mere property status, without more, cannot be used by a state to test, qualify, or limit his rights as a citizen of the United States. 'Indigence' in itself is neither a source of rights nor a basis for denying them. The mere status of being without funds is a neutral fact—constitutionally an irrelevance, like race, creed, or color. . . .
>
> "Any measure which would divide our citizenry on the basis of property into one class free to move from state to state and another class that is poverty-bound to the place where it has suffered misfortune is not only at war with the habit and custom by which our country has expanded, but is also a short-sighted blow at the security of property itself. Property can have no more dangerous, even if unwitting, enemy than one who would make its possessions a pretext for unequal or exclusive civil rights. Where those rights derive from national citizenship no state may impose such a test. . . ."

As pointed out before, however, the effort of the four justices was unsuccessful and freedom of movement was denied status as a constitutional right under the Privileges and Immunities Clause of the Fourteenth Amendment.

c. The Comity Clause. Another effort to constitutionalize the right of free movement revolved about the so-called Comity Clause—"The Citizens of each State shall be entitled to all the Privileges and Immunities of Citizens in the several States."

The predecessor of this clause was Article IV in the Articles of Confederation which provided: "The free inhabitants of each of the states, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively. . . ." The Court has often said that the Comity Clause in the Constitution is the compendious equivalent of the earlier version in the Articles of Confederation.[24] If so, the constitutional clause certainly includes the right of ingress and egress to or from any of the states since that was explicitly guaranteed in the earlier form. And this the Court also has often said.

Yet, the clause has never received judicial acceptance as the protector of the right of free movement. Why not? The answer lies, I think, in a number of factors. To begin with, if the language is the compendious equivalent of the version in the Articles of Confederation, paupers and vagabonds are excepted. The clause would thus have worked against the decision that all nine judges thought proper in the *Edwards* case. In the second place, the wording of the clause as it presents itself in the Constitution does not readily suggest that the process of traveling from one state to another is what is encompassed. Thirdly, the language employed implies an article of compact between the states, not a grant of power to the Federal Government even for enforcement purposes. Fourthly, the provision appears to emphasize state, not national, citizenship and to provide a guarantee for the former. Its opening words are: "The citizens of each State shall be entitled . . ." Finally, the clause does not appear to restrain a state in dealing with its own citizens whether in respect to their right of free movement or otherwise.

Whether for these reasons or for others, the right of free movement has not found constitutional sanction in the Comity Clause.

3. Rights in the New Community

So far, I have spoken about two of the elements comprising the right of free movement, namely, the right to remain in your home community and the right of locomotion, the right actually to go from one place to another. We have seen that both of these elements are insecurely and uncertainly protected by the Constitution as it is read by the Supreme Court.

There is still a third element comprising the right of free movement no less indispensable than the other two: It is the right to be upon an equal footing with those already in the community to which you go. If you may be denied substantial rights after arrival, if you may be barred from the common callings and resources of the community available to others, if opportunities of life and livelihood may be withheld from you on a discriminatory basis, then the right to go there is emptied of all substance and meaning. Do you then have a right of full-fledged membership in the community to which you go: What say the Constitution and the Court on this?

The constitutional clauses which are particularly relevant are the Comity Clause of Article IV and the Equal Protection and Due Process Clauses of the Fourteenth Amendment.

Though the Comity Clause has not been used to protect the right and the process of moving from state to state, it has been used, at least to some extent, to protect the rights of persons after arrival. In fact, this is the long-standing interpretation of the clause, that it forbids a state to discriminate against citizens of other states in favor of its own citizens. The state must treat them all alike, the newcomer and the long-time citizen-resident. The clause gives migrants no rights which cannot be taken away by the state, if at the same time the state deprives its own citizens of those rights. Nor is the clause a bar between a state and its own citizens. As Justice Miller said, it is a command to the states that "as you grant or establish [rights] to your own citizens, or as you limit or qualify or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the

[24] *Ibid.*; United States v. Wheeler, *supra* note 1.

rights of citizens of the other states within your jurisdiction."[25]

This doctrine, however, though all-encompassing in formulation, has been greatly qualified by judicial classification of the privileges and immunities covered. What judicial classification? The Comity Clause says that "The citizens of each State shall be entitled to *all* the privileges and immunities of citizens in the several States." The Supreme Court has said that the word "all" means "some." The classic case in which this interpretation was first laid down was *Corfield* v. *Coryell*, decided on circuit in 1823 by Justice Bushrod Washington.[26] The privileges and immunities protected, said Justice Washington in that case, are those which are "in their nature fundamental, which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union. . . ." Justice Washington specified the following rights as answering this description:

> "Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; subject nevertheless to such restraints as the government may justly prescribe for the general good of the whole. The right of the citizens of one state to pass through or reside in any other state, for the purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the state; to take, hold, and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the state. . . ."

After thus defining the privileges and immunities which were protected, Justice Washington went on to distinguish them from rights which are not protected. Principal among the latter he listed the right to a share in the public patrimony of the state. We cannot accede to the proposition, he said, "that in regulating the use of the common property of the citizens of [the] state, the legislature is bound to extend to the citizens of all other states the same advantages as are secured to their own citizens." The right of a state to the fisheries within its borders he then held to be in the nature of a property right held by the state "for the use of the citizens thereof."

In the application of this doctrine, the Supreme Court has allowed states to exclude non-residents from raking or gathering clams, oysters or shells from any of the waters of the state,[27] from killing and taking wild game,[28] and from the use of the running waters of the state.[29] Justice Hughes in *Truax* v. *Raich*[30] by way of dictum repeated the general doctrine and added to the list: a state might limit to its citizens the enjoyment of "the public domain, or the common property or resources of the people of the State." The same goes for employment on public work or receiving the benefit of public moneys.

The exclusions in these cases were of non-residents. What about newly-arrived residents: persons who have come to the state and who have the requisite combination of act and intent to make them residents thereof? Are they subject to the same exclusions as non-resident visitors or sojourners? Do they indeed have the guarantee of the Comity Clause at all since they are no longer citizens of the state which they have left?

BY UNIVERSAL practice, supported in many instances by judicial decisions, newcomers are denied for a time not only the rights which are deniable to non-resident citizens of other states but to the very rights which these latter may claim constitutionally. The new resident is subjected to length of residence requirements in almost every area in which his life touches matters of public interest or importance. He must wait for a period, sometimes a fairly long period, before he is eligible to vote or hold office; before he has the full use and protection of the courts; before he can enter and practice many of the professions and near professions; before he can sell insurance; and, above all, before he can secure public welfare aids and services including, of course, public assistance. On what basis can this discrimination between new residents and old residents be justified? Is the conception of a length of residence requirement as a prerequisite to essential rights and services merely a vestigial remainder of notions of locality and community dominant in an earlier period of history and geography?

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[25] Slaughter House Cases, *supra* note 23.

[26] 6 Fed. Cas. 3230.

[27] Corfield v. Coryell, *supra* note 26; McCready v. Virginia, 94 U.S. 391 (1877).

[28] Greer v. Connecticut, 161 U.S. 519 (1896).

[29] Hudson County Water Co. v. McCarter, 209 U.S. 349 (1908).

[30] 239 U.S. 33 (1915).

It is significant, I think highly significant, that a length of residence requirement is commonly associated in public assistance programs with many of the features of the Elizabethan Poor Laws, whereas a length of residence requirement is altogether absent from the social insurances which in other respects, too, contain many features of a modern system of public aid. The following enumeration will make this clear.

1. In public assistance, the dominant reason for dependency is believed to be personal—at least in part the result of lack of thrift, initiative, ambition or other moral virtue. In the social insurances, the principal cause of dependency is believed to be not individual but social: a need for protection arising from the complexities of modern society and the imperfections of the economy.

2. In public assistance, since responsibility for poverty is personal, relief is believed to be a matter of charity, proceeding from the moral, religious or humanitarian feelings of the public. In the social insurances, since responsibility for poverty is social, resulting from an imperfect economic setting which subjects the individual to hazards over which he has no control, relief is a proper charge against the total economy to which the individual lays claim as a matter of right.

3. In public assistance, it is believed that the amount of the individual payment should be sufficient to keep body and soul together but not enough to make the recipient comfortable in his "delinquency." It must be low enough to constitute a compulsion to income-producing initiative. In the social insurances, since recipients are out of work because there are no jobs or because society forces them to retire at a given age, the amount of the grant cannot be adjusted to coercion. It must be geared to a reasonable standard of living.

4. In public assistance, since the cause of dependency is personal, aid is granted only to "worthy" or "deserving" poor. Moralistic and socially acceptable behavioral standards are therefore commonly imposed as a condition of relief. In the social insurances, since the cause of dependency is social and arises from factors over which the individual has no control (and to some extent since conditions of eligibility and the amount of the grant are specified with precision in the law), behavioral requirements are drastically limited or non-existent.

5. In public assistance, responsibility of relatives is quite generally imposed though its legal character and administrative implementation take various forms. In the social insurances, exactly the opposite is true. Not only is the payment to the beneficiary unrelated to the legal liability and financial capacity of his relatives to support him, but certain of his relatives who are dependent on him are also given payments.

6. In public assistance, payments are made on a basis of individual need individually determined. All means possessed by the individual to meet his need are first discounted before payment is made. In the social insurances, payments are also designed to meet need. But need is presumptive rather than demonstrated, average rather than individual. The need of the individual is presumed from his membership in a publicly aided group and is set as the average of the need in the group. Payment is accordingly made to the individual quite regardless of his individual resources.

7. In public assistance, state or local residence is almost always required. In the social insurances, a person may move anywhere in the United States without having his rights affected. Indeed, covered workers under Old Age and Survivors Insurance retain accumulated benefit rights even if they move to Canada, under an international agreement concluded in 1942.

Conclusion

I submit the following propositions:

1. The right of free movement should be treated as a basic right and constitutionally protected accordingly.

2. While it is nowhere explicitly mentioned in the constitutional document, the right of free movement yet underlies and is presupposed by the system of personal rights which the document is designed to protect. It seems particularly to be an aspect of the personal liberty guaranteed by the Fifth and Fourteenth Amendments, to be inseparably appertinent to national citizenship and to be sheltered by equal protection concepts implicit in the Fifth Amendment and explicit in the Fourteenth.

3. The right of free movement consists of three major elements: The right to remain in and move about in your home community; the right to leave your home community unhindered, to travel to

some other part of the country for temporary purposes or for permanent establishment of a new residence; the right as a new resident in any community to stand upon an equal footing with the old residents at least as to essential rights and services.

4. The Supreme Court has not adequately protected this right. It has declined to declare it a privilege or immunity of national citizenship except as that citizenship is related to governmental functions. It has protected only a few aspects of it under the Comity Clause which in any event is a textually unpromising haven. It has principally utilized the Commerce Clause which, while it enabled the Court to strike down some state encumbrances and prohibitions, is a grant of power to Congress and not a constitutional restraint either on state or federal action. This is particularly important as we move into an era in which the federal commerce power is increasingly used for affirmative purposes of control and the enforcement of standards unrelated to commerce.

5. Length-of-residence requirements, existing universally throughout the country and in profusion, operate as an impairment of the right of free movement. They should accordingly be held unconstitutional. They are not generally necessary as local police regulations.

6. The newcomer acquires residence instantly upon arrival, since at that moment he has the requisite combination of physical presence and intent permanently to remain. The Fourteenth Amendment says that "all persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside." Newcomers, consequently, are made by the United States Constitution citizens of the state into which they have come. The states are not authorized to prescribe a length-of-residence requirement before their citizenship attaches and all such prescriptions are unconstitutional.

7. Many state length-of-residence requirements violate the clause of the Fourteenth Amendment providing: "No state shall deny to any person within its jurisdiction the equal protection of the laws." "No state shall deny to any person"—that is, citizen, resident, non-resident, alien. The Equal Protection Clause permits legislative classification but only when the classifying trait is related to a constitutionally achievable purpose. When there is no such relationship the law is invalid.[31]

8. Length-of-residence requirements in public welfare violate the equal protection command of the Fourteenth Amendment. Public welfare aids and services are granted for the purpose of meeting needs. Newcomers have these needs as well as long-time residents. They therefore stand in the same relationship to the purpose of the law as do long-time residents. Under the Equal Protection Clause they must be treated alike.

[31] Joseph Tussman and Jacobus tenBroek, "The Equal Protection of the Laws," *California Law Review*, Vol. 37, No. 3 (September 1949), pp. 341-381.

MONITOR MINIATURES

The Northwestern Ohio Region of the Sports Car Club of America sponsored a rally recently in Toledo. All but two of the twenty-two navigators read Braille route instructions. All entry fees for the event went to an eye-screening program.

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Oregon Industries for the Blind of Portland was given a national award in recognition of its outstanding record over the past year in providing jobs and higher wages to blind persons. This Industrial Achievement Award was presented by National Industries for the Blind.

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The Picatinny Arsenal (New Jersey) gives employment to more than 400 persons with physical handicaps of one kind or another, a larger number than any other Army installation. One of the handicapped employees is James Morse, blind, who takes components for instruments on a lathe which holds to a tolerance of 1/1,000 of an inch. Morse received his machine shop training at the School for the Blind in Newark.

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The annual meeting of the General Council for the Workshops for the Blind was held in Seattle, Washington. Karl Randall, 28, of Minnetonka, Minnesota was presented the Peter J. Salmon Award as The Blind Worker of the Year.

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Ray Charles, blind yet one of the world's greats in popular music, lost his sight in childhood. Although he draws upon established material in jazz, in popular music, and in rhythm and blues for the tunes he records and performs, more than 90 percent of the numbers recorded and played by Ray Charles before live audiences are his own compositions. He is a perfectionist, playing a number on the piano over and over again until everything is just right. Through the world of music and his own sensitive rendition of it, Ray Charles has brought inspiration to hundreds of thousands of persons.

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The Poseidon is the U.S. Navy's newest fleet ballistic missile and is a submarine-launched weapon. In the manufacture of gas-launched generators for Poseidon motors, a problem developed at the Allegany Ballistic Laboratories--the time-consuming operation of applying heat-shrinkables to the suppressor rods and to the immobilizer springs used in these generators. The answer to the problem came as a result of the capabilities of the Maryland Workshop for the Blind in Cumberland, where it was found that the job could be done in a highly satisfactory manner. Two shipments of rods and springs have already been completed with perfect workmanship and without a single defect. As a result, additional contracts will be negotiated with the Navy.

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Jacques Saphier of Paramus, New Jersey is the Editor of what he calls The Talking Newspaper. What is unique about this service is that the recorded tapes have only local news and are issued weekly. A photographer by trade, Saphier has brought community news to blind persons since 1955. Anyone interested can get in touch with the Red Cross, 74 Godwin Avenue, Ridgewood, New Jersey.

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Orangeburg County Representative F. Hall Yarborough was cited in Spartanburg "for outstanding service to the blind of South Carlina" by the S. C. Aurora Club of the Blind. Presenting a silver trophy cup to Yarborough, the Club's highest honor to a sighted person for rendering service to the blind, was first vice president of the organization, Donald C. Capps. Capps praised Yarborough for his enthusiastic support of the program for the blind which has resulted in more effective services.

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The Pennsylvania Federation of the Blind is urging a $5 a month increase in blind pensions. Frank Lugiano, Federation President, said that his organization has voted to push for legislation which would establish a registry for the blind in the state, a yearly census of employed blind persons, and a state commission for the blind.

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A recently concluded one-week vending machine service and repaire school, in Frankfort, Kentucky, was held by J and J Distributing Company of Ohio. The 15 blind students in the school work through the Kentucky Business Enterprises which operates manual and

automatic stand location in a number of cities. The students were given a full 40 hours of instruction on hot and cold drink machines, candy, pastry, cigarette and hot canned food vendors. The easy removal and replacement of major components in vending equipment is a must in these days of automation.

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The Ohio Council of the Blind Bulletin reports that the Montgomery County Association of the Blind is using radio spots to acquaint the public with the white cane. They also held a ham-and-bean dinner for which they charged $1.00. Finally, the Association is planning another fund-raising project--a May musical festival.

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The many local Colorado Lions Clubs have made substantial contributions over the years to the Colorado School for the Deaf and the Blind. These include not only sizable donations for the purchase of major school equipment, but also such assistance as the purchase of glasses and other visual aids for individual children, the purchase of white canes, and the operation of an annual summer camp for the blind children of the state. In recognition of these many contributions, the Advisory Board of the School voted unanimously to dedicate the new Dining-Social Hall for the Blind to the Lions Clubs of Colorado.

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Los Angeles County announces a liberalization of eyesight requirements for persons interested in qualifying for careers as sheriff's deputies. Minimum requirements for uncorrected vision have been changed from 20/40 to 20/70, provided regular glasses or contact lenses can correct vision to a minimum of 20/30. This liberalization was undertaken when extensive studies revealed that otherwise desirable applicants were unable to qualify for law enforcement careers because of the out-dated stringent vision requirements.

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Manuel J. Rubin of East Bridgewater, a leader in the Associated Blind of Massachusetts, was reappointed a member of the Advisory Board, Massachusetts Commission for the Blind, By Governor Volpe. Congratulations, Manny!

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A Mercury space capsule specially designed for the blind was on exhibit for two months at the Pacific Science Center in Seattle. The exhibit, called "Enlightment for the Blind", was assembled by the National Aeronautics and Space Administration. It used narrations, models, relief maps, diagrams and scale models of space hardware.

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"People want to be helpful. But sometimes they don't know how to be." It was a blind priest speaking of a problem that both the blind and the sighted encounter. The blind person knows what he is capable of doing for himself. The sighted person puzzles about whether or how to help the estimated 1 million blind. The 58-year-old priest knows whereof he speaks. The Rev. Francis E. McDonough, chaplain of the Loretto Home for the Aged, in Rutland, Vermont, a center supported by the Vermont Catholic Charities, was totally blinded three years ago in an automobile accident. He prefaced a letter to United Press International with a Biblical quote from Leviticus, Chapter 19, admonishing "place not a stumbling block for the blind."

"Few people would want deliberately to place the stumbling block for a blind person to fall over or to injure himself," the father wrote. "But many find it difficult to understand the needs of a blind person."

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The Federal Social and Rehabilitation Administration called for improving the participation of the poor and the disabled in programs which affect them as "the only way to assure that these programs accord with reality."

Many disabled persons are not being reached soon enough to get the most out of rehabilitation services, and others are not being reached at all. Public and voluntary agencies must improve both their communication with the poor and their delivery of services.

These remarks of Miss Mary E. Switzer were contained in an address delivered at a symposium on "Disability Added to Impoverishment in the Inner City", sponsored by the Jewish Guild for the Blind, New York City.

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Federal Social and Rehabilitation Administrator Mary E. Switzer said that a new emergency aid program should be a great help in assisting needy families through crises. . . .

The emergency aid program--designed to help needy families with children who have a crisis--was established by the welfare provisions of the 1967 Social Security amendments. It provides for emergency payments and services to an eligible family for up to 30 consecutive days in an 12-month period. Although the emergency program is optional with the States, most are expected to write it into their welfare plans.

Eligible to receive emergency benefits is any needy family with a child under 21 in the home. However, the child's need must not exist because he or the relative with whom he lives has refused to accept work or training. Needy migrant families with children are also eligible....

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Dr. Berthold Lowenfeld of Berkeley, California, long-time Superintendent of the California School for Blind (1949-1964) received the 1968 Migel Medal, presented annually by the American Foundation for the Blind. . . .

Dr. Lowenfeld has been a distinguished figure in work for the blind in this country for thirty years. The author of a number of books and articles on the education of blind children, Dr. Lowenfeld was born in Austria and received a Ph.D. in child psychology from the University of Vienna in 1927. He came to this country in 1938. From 1939 to 1949 he was director of educational research for the American Foundation for the Blind. In 1949 he became superintendent of the California School for the Blind.

He has also served as an instructor at Teachers College, Columbia University, New York, and as visiting professor at Western Reserve University and at the Universities of Washington and Michigan, as well as consultant to many federal, state, and private agencies.

He is presently serving as a member of the National Advisory Council on Vocational Rehabilitation and as a consultant to the U.S.

Office of Education, both sections of the U.S. Department of Health, Education, and Welfare. He is a member of the editorial board of the American Association of Workers for the Blind; associate editor of Exceptional Children, published by the Council on Exceptional Children; and chairman of the Advisory Council to the Braille Authority.

He received the Shotwell Memorial Award for Distinguished Services from the American Association of Workers for the Blind in 1965.

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William Klontz has just retired as Editor of the Iowa Association of the Blind Bulletin after fifteen and one-half years. You have served long and well, Bill, and the best of all things to you. Bill's place is being taken by Judy Young, who will do a good job as Editor. Welcome to Iowa, Judy!

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Some blind persons are having at least partial vision restored through a new method of restoring "the windows of the eye", the cornea. The surgical procedure consists of fusing a tiny shaft of clear plastic into the eye which acts as a thick lens. It has projections of mesh which hold it in place.

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One morning recently a telephone call came to George Rittgers of Kansas City, Missouri from Radio Station KMBZ and George knew the amount of money in the Jackpot Jingle. He won $1,098.98. His wife, Gwen, now refers to herself as Cinderella.

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